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Speech Pathology Australia

Submission from Speech Pathology Australia

Health and Community Services Committee, Queensland Parliament: *Health Practitioner Registration and Other Legislation Amendment Bill 2012*

Executive Summary

Speech Pathology Australia believes removing registration of the speech pathology profession in Queensland will result in less protection of the public and reduced assurance of receiving a safe and competent speech pathology service. This is of a specific concern given the profession's client group being inherently vulnerable and therefore having a specific need for protection through a legislative framework that regulates the practice and conduct of speech pathologists.

Speech Pathology Australia (SPA) has remained firmly in support of registration continuing in Queensland, while at the same time continuing to lobby for inclusion in the National Registration and Accreditation Scheme.

The Queensland Government, through the Health Minister in his introduction of the Amendment Bill, states that the regulation of speech pathologists is 'out of step' with decisions around national registration not including speech pathology. SPA contends however that the decision of the Queensland government is not an appropriate response to being 'out of step' but rather is a 'backward step' for the Queensland public.

SPA has consistently challenged the basis upon which the decision to not include the profession in National Registration and Accreditation Scheme (NRAS) was made. We argue that the profession meets the criteria requiring registration – as outlined in our formal submission to the Practitioner Regulation Subcommittee seeking inclusion in the National Registration and Accreditation Scheme**:** *"The Speech Pathology Profession – a national approach for working in the public interest"* (*attachment 1*). This was elaborated upon by specific response against each criterion as per the attached document *"Summary of Key Points in relation to Criteria for Inclusion in the National Registration and Accreditation Scheme"(attachment 2).*

SPA argues that Speech Pathology is a profession which intrinsically poses risks to public health and safety inherent in the profession's practices and the nature of the clients who seek the profession's services.

By the nature of communication and swallowing disorders, speech pathologists work with people who are physically, socially and emotionally vulnerable. Practice is frequently conducted on a one-on-one basis, furthering the risks due to vulnerability.

When clinical procedures are not carried out with due care and competence, and when complex invasive clinical instrumentation is not used appropriately, clients are at significant risk of physical harm and sometimes death. Many common and advanced practice procedures such as for endoscopic swallowing assessments, voice device insertions, tracheostomy management, and suctioning are invasive and pose considerable risk if not performed competently.

Additionally, the risk of considerable compromise to an individual achieving their developmental, educational, social and vocational potential is high when opportunities are lost due to poor practice in diagnosing and supporting an individual's communication needs.

A secondary stated reason to cease registration is for the removal of the 'burden of registration' however an overwhelming number of Queensland speech pathologists support that registration should continue in Queensland, while national registration continues to be pursued. We would agree that a significant increase in cost in registration fees would not be wanted as this would likely drive up costs and necessarily be passed onto the consumer. We argue however that there has been limited exploration of how registration could be maintained in a cost-effective way, and request that appropriate existing structures or bodies be considered to allow a streamlined stand-alone Board to operate without resulting in increased costs to registrants. It is envisaged also that some of the functions, such as the overseas qualifications assessment of applicants, recency of practice and CPD requirements could be performed by SPA (as in part occurs now), and therefore off-set some of the previous costs of the Board.

The Queensland public deserves to be protected from harm and assured that they are receiving competent, high quality and evidence based health practice – this should necessarily extend to the speech pathology profession, as a long standing and recognised health service meeting the needs of the many thousands of Queenslanders with communication and swallowing impairment.

Speech Pathology Australia is grateful for this opportunity to present this submission and believes it is well placed to provide meaningful input into the Health and Community Services Committee. This input is based on data from the Queensland Board, from our members working with a range of clients (and their parents, carers and other key stakeholders); as well as direct feedback and evidence-based research utilised by the Association. Additionally Speech Pathology Australia seeks an allocated time to present to the Public Hearing at Parliament House on 13 February 2013.

Background and context

Speech Pathology Australia is the national peak body for speech pathologists in Australia representing over 5,100 members, of which approximately 850 members (of the 1590 registrants) practise in Queensland. The Association has a commitment to ensuring high standards of ethical conduct and clinical practice of its members and advancing the profession with respect to providing evidence-based and efficacious services to maximise the health and educational outcomes of those with communication and swallowing difficulties. Accordingly, the Association and profession is concerned about protection of the public from practitioners operating outside the accepted standards of the speech pathology profession and falling under no legislative framework that will govern their ethical and clinical conduct.

Speech Pathology Australia has expressed its full support for continuation of registration in Queensland while continuing to advocate for national registration. In 2008 the Association prepared a joint submission with the Speech Pathologists Board of Queensland to support the inclusion of speech pathologists in the National Registration and Accreditation Scheme (NRAS). Speech Pathology Australia believes the decision to not include speech pathology under NRAS as part of the second intake was ill-informed and hence continued to provide additional information and advice. As recently as 2011 SPA again made a formal request through the Practitioner Regulation Subcommittee to reconsider this decision.

The mandate of the government is to protect the health and safety of the public from harm, with statutory registration providing the greatest level of public protection.

Speech pathology is a profession which potentially poses risks to public health and safety inherent in the profession's practices and services. By the nature of communication and swallowing disorders, speech pathologists work with people who are physically, socially and emotionally vulnerable, as will be outlined in detail below in this submission. The practice of speech pathology commonly involves complex and invasive intervention. When clinical procedures are not carried out with due care and competence, and when complex invasive clinical instrumentation is not used appropriately, clients are at significant risk of physical harm, compromised health and sometimes death. Additionally, the risk of considerable compromise to an individual achieving their developmental, educational, social and vocational potential is high when opportunities are lost due to poor practice in diagnosing and

supporting an individual's communication needs, such is the case for example for children with autism, cerebral palsy or a severe language disorder.

Speech pathology is a regulated profession internationally. Speech pathologists must be registered in the United Kingdom, South Africa, 47 of the 50 states and one district of the United States of America, Ireland (in progress) and seven of the 13 Canadian provinces and territories. New Zealand is currently assessing the case for national registration of speech pathologists.

Speech pathology has been subject to the requirements of registration in Queensland for many years under the Speech Pathologists Board of Queensland. The Board is constituted under section 9 of the Registration Act as a body corporate with perpetual succession. The Board is subject to the provisions of the Health Practitioner Registration Boards (Administration) Act 1999, the Professional Standards Act and the Financial Accountability Act 2009. The previous Queensland government gave its support to continue registration of speech pathologists even after the decision was made to not include the profession in the next wave of NRAS.

The decision of the Cabinet of the Queensland Government to remove registration of speech pathologists in Queensland is of major concern to the Association and we are particularly concerned that there was no prior consultation with Speech Pathology Australia (as the profession's peak body) at either the state or national level. There was also no consultation with the speech pathology profession across Queensland, employer groups, nor more widely with the general public and other stakeholders. Even more disappointing is that there was no consultation with the Speech Pathologists Board with respect to the reasons and implications of the decision and required processes to prepare for transitional arrangements.

The Speech Pathologists Board's experiences in Queensland strongly support the need for inclusion of speech pathology within the National Registration and Accreditation Scheme, and consider that this is the best outcome for health consumers regarding the management of risks to public safety that may arise from speech pathologists working in unregulated environments. Of more immediate concern is that the protections afforded to consumers in Queensland through the functions of the Board are going to be discontinued. By the nature of the disabilities and disorders treated by the profession, these client groups are in need for specific protections through a legislative framework.

The Profession of Speech Pathology

Speech pathologists are university qualified health professionals who are specialists in the assessment and management of disorders of communication and swallowing that may present across a person's life span. Entry level training of speech pathologists is at a Bachelors or Graduate Entry Masters level, similar to that of other nationally registered health professions.

Speech pathologists contribute significantly to the quality of life of individuals through the provision of services that maximise communication (speech, language, voice, fluency, social skills and behaviours, literacy, problem solving and general learning) and swallowing (eating, drinking, managing saliva) whether this is through direct intervention, education, consultancy and collaboration, advocacy or a combination of these.

Speech pathologists work in a variety of jurisdictions including health, community services, non-government organisations, disability, mental health, education, juvenile justice, private practice, academia, and research.

Exponential changes to the practice of speech pathology and the increasing complexity of client needs has led to common place advanced diagnostic and therapeutic processes.

Protection of the Public – vulnerability and risks

Vulnerability

The fundamental reason for supporting the speech pathology profession's inclusion in the NRAS, and in its absence, at least to retain statutory registration in Queensland, is that the client groups seen by speech pathologists are inherently vulnerable due to the fact that many of them have severe and complex communication disorders that include both understanding and speaking, or those with swallowing and eating impairments impacting on their health, nutrition and mortality. These clients have a specific need for protection through a legislative framework that regulates the environment in which speech pathologists operate.

All clients seen by speech pathologists have an implied vulnerability as nearly all of them experience some form of communication disorder. They can be unable to tell their story, or only be able to communicate elements of their thoughts. They may not understand what is being asked of them whether it be by a teacher with a reading task or a police interview with a juvenile offender. They may understand everything very well but not be able to say any words or sounds, for example a stroke survivor with aphasia. They may be unintelligible due to an intellectual disability or physical disability such as cerebral palsy and require an alternative means of communication. They may be a teenager with autism for whom their poor pragmatic (social) communication is limiting development of peer relationships. They may have slurred or disturbed speech due to a progressive neurological disorder such as motor neurone disease, Parkinson's disease or dementia. They may be a mother with a new born baby with an inability to swallow and thrive. They might be a singer who damaged their vocal cords and needs intervention to restore their capability as a professional voice user. They might be a pre-schooler with severe sound substitutions making them unable to be understood and not able to interact with others at play. They may be a teacher with a persistent stutter which severely affects their fluency and ability to teach in the classroom. They might be a young man with a severe traumatic brain injury and associated cognitive and behavioural problems, or a person with head and neck cancer who has had their larynx (voice box) removed. These are just a sample of typical clients with whom speech pathologists work.

The nature of speech pathology intervention and the conditions of clients seen is that speech pathologists will work intimately with clients for a long period of time. In many situations, it is highly likely that clients will be seen alone by the speech pathologist for periods of up to an hour. It is also highly likely that the professional and the client will have a prolonged therapeutic relationship over many months or even years. There may be no family member present in these sessions; there may be no supervision by another therapist; there may be no student observing; there may be no other health professional participating in an assessment or therapy session; there may be no significant other to attend.

The speech pathologist is required to develop and engage the client in a trusting relationship particularly as the client has a communication disorder and may well have other disabilities, including cognitive impairment, intellectual disability and/or behavioural problems. The speech pathologist is required to define and manage the professional boundaries with the client and engage in the highest standards of professional conduct. This occurs most often in a one to one situation with no monitoring, no observation and potentially no feedback.

Clients who have problems in communicating are always the least powerful person in the relationship. There is the potential to take advantage of clients by unscrupulous operators and there is the opportunity to manipulate someone who is less capable and confident in their ability. The public places enormous trust in health professionals and we have a strong duty of care to ensure that their trust is well placed and that they receive competent, safe and evidenced based services.

A further concern that clearly stems from providing services to these clients is whether the clients themselves actually understand what behaviours and actions are appropriate and inappropriate. The most appropriate person to determine whether they can comprehend and have a level of understanding about their rights and entitlements is commonly their speech pathologist.

Risks

Not fully recognised outside the profession is that there can be a physical and/or invasive nature of many areas of speech pathology practices. As part of our role in assessing and treating clients with communication disorders, speech pathologists are often required to touch or physically direct their clients. This may be for positioning to assist with eating and swallowing in the case of someone with a severe physical disability; conducting sensory assessments with children with autism, performing an oro-motor examination; placing a voice prosthesis in the neck stoma of someone following a laryngectomy or teaching a client to use an electronic communication device. Specific therapeutic techniques or programs can have a physical component, such as those used with many children with speech and language problems, which may require the clinician to press on the child's diaphragm and to position their mouth appropriately. Some children with neurodevelopmental conditions, who have movement disorders or muscle tone issues, often require physical interaction techniques and games to help them regulate/calm, to prime them to engage and communicate. Much of therapy will be integrated into functional activities such as when a person is dressing or toileting, for meal time assistance and in conducting types of play therapy. Significant invasive techniques and procedures are also used with people with a tracheostomy and for undertaking swallowing assessments such as the use of a video-fluoroscopy assessment or Fibreoptic Endoscopic Evaluation of Swallowing, where barium and trial substances (food and fluids) are ingested by the client.

Above, we referred to a range of the types of work that speech pathologists do. It is also important to recognise that there are new or emerging areas of work and a growth in the profession operating across the community: for example, working with children/adolescents in the juvenile justice system; working with newly diagnosed dementia patients who are experiencing a loss of language and ability to make decisions; working in mental health facilities with those who have communication impairments alongside their mental health condition; assisting in 'closing the gap' for indigenous children in their language, literacy and communication development, working with new Australians on accent modification, assisting in altering the vocal quality of those undergoing gender transitions, and working with adults and children with literacy problems.

What a Regulatory Board can enforce, which a professional body cannot

The Speech Pathologists Board of Queensland ensures that registrants are appropriately qualified and fit to practice before being granted registration. The Board is also responsible for investigating any complaints against practitioners, and instituting disciplinary action where necessary. It also ensures unregistered people do not use any restricted titles of the profession, and institutes prosecution action where necessary thereby applying a measure of safety for the public.

Currently the Speech Pathologists Board of Queensland is also able to undertake Health Assessments and monitor registrants who have physical or psychological impairments which potentially impact on their competence and in situations where they are dealing with vulnerable clients. Where possible, the Board assists registrants with health issues to manage and overcome these issues in a way that does not adversely place the public at risk. The Board also has the opportunity to place general conditions on a registration dictating the only areas of practice where they are deemed to be competent. If registration is discontinued in Queensland, then these practices will cease. Speech Pathology Australia has no jurisdiction or statutory powers to undertake these processes with its own members and has no jurisdiction at all across those who elect to not be a member of SPA.

Health practitioners who have completed multiple indicators of continuing competence (such as recent practice, Continuing Professional Development programs and peer group activities) are more likely to maintain competence in practice. These indicators and standards are managed and regulated by registration boards. Speech pathology is a self-regulated profession with strong internal self-regulation measures however self-regulating professions can engage only their members in compelling them to abide by the standards set by the profession and membership eligibility. Registered professions can uniformly transfer these requirements to professional, safe and competent health care for the whole of the community.

In this way the Board fulfils its duties to protect the public, uphold standards of practice and maintain public confidence in the profession. To discontinue the safeguard offered by the Board, is to put vulnerable clients and consumers at risk for adverse events (physical, psychological and emotional) that cannot be robustly monitored in another system with limited or no legislative powers, such as is the case with professional body self-regulation.

Implications of removing registration requirements for Queensland speech pathologists

A high number of registered speech pathologists are not members of Speech Pathology Australia - only 850 of the 1,558 registered speech pathologists are members of the Association. Therefore many Queensland speech pathologists will be left practising without any regulatory framework - Speech Pathology Australia can only assure the public of the ethical and professional competency standards of its own members and not the profession as a whole.

As indicated above, a proportion of registered speech pathologists are under a conditional registration, with limitations imposed on the areas or scope of practice – this cannot be regulated under Speech Pathology Australia's membership eligibility and these practitioners may not meet these eligibility criteria and will therefore be ineligible to join.

Again as above, the Registration Board has powers to assess and monitor medical conditions of practitioners that may impact adversely on their ability to practise safely and competently – Speech Pathology Australia does not have powers or mechanisms to deal with 'impaired practitioners'.

A number of complaints that have gone forward to the Board involve false claims or inappropriate advertising – this is an area that can be investigated and dealt with effectively by a registration board but cannot be managed by a professional body for those who are not members of their Association. In many of the cases of advertising concerns, the person involved is not qualified as a speech pathologist.

Some speech pathologists currently practising in Queensland may not be able to obtain provider status with Medicare, Private Health Insurance Funds and FaCHSIA, if they cannot successfully apply for practising membership of Speech Pathology Australia. This will limit the public's access to the speech pathology services they require.

It has been indicated that active cases of disciplinary proceedings or sanctions will be handed over to the Health Quality and Complaints Commission, however it has been confirmed that this would apply to only those working in a health setting, whereas many speech pathologists work across other sectors and independently in private practice. There is also no clear idea of how these speech pathologists will be monitored or regulated even if they do fall under the auspices of the HQCC.

Although it has been indicated that a transition period will apply, there may not be sufficient time allowed for practitioners to obtain appropriate certification including a 'Blue Card' and 'Yellow Card'.

It has been suggested that in the future employers will be responsible to determine the qualifications and competence of speech pathologists. While SPA confers eligibility of practising membership for new graduates of SPA accredited programs or those who have undertaken SPA's assessment of overseas qualifications, beyond the initial eligibility point, the Association can only guarantee the ongoing recency of practice and competence of current members, and can have no role in advising employers of the qualifications and competence of those who are not or no longer members of SPA.

Some brief case examples from the SP Registration Board of real and current situations:

Attached is a table of the number of complaints and sanctions applying to Queensland speech pathologists in recent years (*Appendix 1).* Some descriptive examples follow:

- Individuals claiming they are a Speech Pathologist when they have no qualifications – the Board has the powers to write to instruct them to cease and desist
- Individuals with a non-Speech Pathology background who are charlatans (ie a clairvoyant who made false diagnoses and promises in regards to a child's language disorder)
- Speech Pathologists who do not have the required training and competence across all areas of practice – the Board can restrict the areas in which they practice, ie. they must only work in the paediatric area and cannot see adults with communication problems following stroke etc, nor perform assessment and treatment for swallowing problems
- Speech Pathologists who do not have currency of practice – they will be instructed by the Board to undergo a re-entry program involving mandatory Continuing Professional Education and Supervised Clinical Practice (under the supervision of a fully registered speech pathologist)
- Speech Pathologists who are 'impaired', that is, have health issues (often relating to mental health) – they will be instructed to practice under a "Supervised Practice Agreement' with the supervision and guidance of a general registrant.
- Assessment of those with overseas qualifications who may have obtained employment in Queensland without undertaking the Speech Pathology Australia's Overseas Assessment process (which is endorsed through DEEWR and Skills Australia) – competence to practise is assessed by the Board and as above may have the areas in which they can practise restricted.
- Investigation of the allegations around unprofessional and unethical conduct involving commencing an inappropriate relationship with a client – a regulatory body carries the legal powers to conduct appropriate investigations and would additionally potentially pass findings to police if necessary.
- Investigation of specific ethical conduct of a speech pathologist making false claims and misrepresentation of treatment outcomes – the Speech Pathologist Board is in a position where it can investigate the specific claims and treatment 'promises' of practitioners who are acting unethically and in a fraudulent manner; whereas a generic health complaints commission will not have the profession specific knowledge to investigate such complaints.

Financial reasons for ceasing registration

It has been argued that with other professions entering the National Scheme, registration of Queensland speech pathologists has become financially unviable. The registration scheme itself is self-funding however the infrastructure costs associated with the running of the Office of Health Practitioner Registration Boards (OHPRB) for one profession only would unreasonably increase the registration fees for speech pathologists. While clearly SPA would not wish to see this happen, there has been no discussion around any other economical ways of managing a single Registration Board (or possibly two if Dental Technicians were also to remain).

Despite the costs involved in registration the majority of speech pathologists in Queensland who have expressed their opinion are in favour of retaining registration in their state. We acknowledge that some clinicians are very concerned that costs would rise to an unreasonable level, and we would agree that a significant increase in cost in registration fees would not be wanted as this would likely drive up costs and necessarily be passed onto the consumer. We also hold concerns that due to these higher costs they may not pursue the necessary professional development to support their practice. We argue however that there has been limited exploration of how registration could be maintained in a cost-effective way, and request that appropriate existing structures or bodies be considered to allow a streamlined stand-alone Board. Possibilities may include some oversight through the Health Quality and Complaints Commission (if extended beyond health practitioners only) or even AHPRA if registrant requirements were shown to match that of the NRAS. It is envisaged also that some of the functions, such as the overseas qualifications assessment of applicants, recency of practice and CPD requirements could be performed by SPA (as in part occurs now), and therefore off-set some of the previous costs of the Board.

Support by the profession in Queensland

A recent survey of members in Queensland was undertaken to gauge the level of support for registration continuing in Queensland. This was sent to 894 members with a responses received from 163 speech pathologists. Quantitative and qualitative responses were sought.

The following table shows the response received against 4 key questions, demonstrating that there is a high majority support for the retention of registration in Queensland.

1. Do you believe that state-based, statutory registration of speech pathologists in Queensland should be retained?		
Answer Options	**Response Percent**	**Response Count**
Yes	87.7%	143
No	12.3%	20

2. Do you consider that the nature of communication and swallowing impairments impacts on the vulnerability of clients seen by speech pathologists?		
Answer Options	**Response Percent**	**Response Count**
Yes	97.5%	159
No	2.5%	4

3. Do the clinical practices and services, inherent in the scope of practice of speech pathologists, pose risks to the public in terms of potential physical, social and emotional harm?		
Answer Options	**Response Percent**	**Response Count**
Yes	94.5%	154
No	5.5%	9

4. Do you consider that removing registration of the speech pathology profession in Queensland will result in less protection of the public and reduced assurance of receiving a safe, competent and evidence-based speech pathology service?		
Answer Options	**Response Percent**	**Response Count**
Yes	90.8%	148
No	9.2%	15

While this feedback does need to be tempered against the issues of potential increased costs, as discussed above and reflected in some of the member feedback, there is real concern about the implications of having registration removed. While there was reinforcement that the profession should progress to national registration, there was general significant concern that removing speech pathology registration in Queensland at this time would lead to less protection of the Queensland public.

SUMMARY

Speech Pathology Australia believes removing registration of the profession in Queensland will result in less protection of the public and reduced assurance of receiving a safe and competent speech pathology service. This is of a specific concern given the profession's client group being inherently vulnerable and therefore having a specific need for protection through a legislative framework that regulates the practice and conduct of speech pathologists.

With SPA membership only covering approximately half of practising speech pathologists in Queensland, it is of grave concern that a high number of practitioners will be operating outside any regulatory or credentialing framework. The numbers of unregulated speech pathologists can only increase further as currently there is a considerable growth in the profession's numbers with the introduction of several new programs across Australia (including 3 in Queensland) and the attractiveness of those with overseas qualifications to attempt to practise in Australia. Additionally in recent years, the number of professional queries and formal complaints received by the Speech Pathologists Board of Queensland and Speech Pathology Australia has continued to grow steadily.

The Queensland Government is making a financial decision only, and is abrogating its responsibility in protecting the Queensland public, by reducing its regulatory functions of health professions which previously was a 'gold standard' for other states.

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Appendix 1

Number of Complaints to the Speech Pathologists Board of Queensland

Year	Registration Act	Issue	Profl Standards Act	Issue	Health Ax & Monitoring	Issue	General Conditions on Registration	Issue
11/12	1	Use of restricted title	2 1	Treatment w/o consent Financial exploitation	2 1	Monitoring undertakings Ceased registration	0	
10/11	1	Use of restricted title	1	Treatment w/o consent	2	Monitoring undertakings	0	
09/10	3	Qualified w/o registration	1 1	Inadequate record keeping Unsatisfactory conduct	1	Monitoring undertakings	11	e.g. restricted to paediatrics; Supervision with adults; No practice in dysphagia
08/09	2	Qualified w/o registration	2	Inappropriate treatment Unprofessional conduct	1	Monitoring undertakings	8	e.g. restricted to paediatrics; Supervision with adults; No practice in dysphagia
07/08	1	Unregistered SP - advertising	4 1	Practising before registration approved Advertising –non registered SP	1 7	Monitoring undertakings Breach of confidentiality	4	e.g. attendance at psychiatrist

Attachment 1

the speech pathology profession

A national approach for working in the public interest

A submission from The Speech Pathology Profession
to the Practitioner Regulation Subcommittee
for inclusion in the National Registration And Accreditation Scheme

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TABLE OF CONTENTS

1. EXECUTIVE SUMMARY

This submission, prepared jointly by Speech Pathology Australia and the Speech Pathologists Board of Queensland, substantiates the speech pathology profession's rationale for inclusion in the National Registration and Accreditation Scheme for the Health Professions.

The speech pathology profession recognises the need to build public trust through the provision of safe as well as sustainable health services. Three key strategic directions are central to fulfilling this goal:
(1) guaranteeing the quality of health care by ensuring that the community can readily identify speech pathologists who have appropriate qualifications and skills;
(2) improving consistency and confidence in processes of deploying the speech pathology workforce; and
(3) assuring equity of public access to services that meet high standards of quality and safety, within the context of interdependent, multidisciplinary healthcare service delivery.

By the nature of communication and swallowing disorders, speech pathologists work with people who are physically, socially and emotionally vulnerable. When clinical procedures are not carried out with due care and competence, and when complex clinical instrumentation is not used appropriately, patients are at significant risk of physical harm and sometimes death. Additionally, the risk of considerable compromise to an individual achieving their developmental, educational, social and vocational potential is high when opportunities are lost due to poor practice in diagnosing and supporting an individual's communication needs.

Existing governance and regulatory mechanisms fail to provide the public with satisfactory assurance that speech pathologists deliver consistently safe and high quality health care services. Although the speech pathology profession has done a great deal in recent years to introduce measures to optimise public health and safety, the absence of a unifying framework, that is universally applicable for all practitioners, means that these efforts are fragmented, fail to provide comprehensive coverage, and lack appropriate powers to provide effective public protection.

The speech pathology profession in Australia is well positioned and committed to operating within the new national regulatory framework. Supporting this is the profession's established body of teachable knowledge; standards of practice; and clearly articulated functional competencies. In addition, the leadership of Speech Pathology Australia, the Speech Pathologists Board of Queensland, and speech pathologists from across Australia are in alliance in supporting the public interest over occupational self-interest in seeking inclusion of the profession in the new single, national registration scheme. The profession is robust in numbers and as a result believes that national registration can be achieved in a cost efficient way.

National regulation of the speech pathology profession will provide a sound framework to manage the potential risks to public safety that may arise from speech pathologists working without the support and governance of rigorous quality assurance mechanisms. It will provide the public with an assurance that registrants have met exacting standards regarding the qualifications required to be registered as a speech pathologist. This measure, combined with the restriction of professional title afforded by legislation, will also provide consumers with a statutory benchmark about who is entitled to offer their services as a speech pathologist.

Regulation of the speech pathology profession through the nation-wide registration and accreditation scheme would address the genuine risks of physical, social and emotional harm inherent in the speech pathology role and contribute to building and maintaining public confidence in services provided by appropriately qualified speech pathologists.

2. CONTEXT:

Australia's healthcare system

> *'The sole purpose of occupational regulation is to protect the public interest…the purpose of regulation is not to protect the interests of health occupations.'*
>
> (Intergovernmental Agreement for a National Registration and Accreditation Scheme for the Health Professions, 2007, p. 23)

In January 2006 the Productivity Commission report 'Australia's Health Workforce' was released. This report recognised the **inseparable relationship between the availability of high quality, safe health care and health workforce issues** in stating that its aim was to 'identify reforms which would produce a more sustainable and responsive health workforce, while maintaining a commitment to high quality and safe health outcomes' (Productivity Commission, 2005, p. iii).[1] Amongst the many recommendations in the report for contributing to achieving this combined goal were: that there should be a single national registration board for health professionals, as well as a single national accreditation board for health professional education and training.

Taking up these recommendations, the **2008 Intergovernmental Agreement for a National Registration and Accreditation Scheme for the Health Professions** [2] will see the establishment of a single national scheme, encompassing the functions of both registration for health professionals, and accreditation for health education and training. The objectives of the single national scheme, defined in the Intergovernmental Agreement and which will be set out in legislation, are to:

- provide for the **protection of the public** by ensuring that only practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered;
- facilitate **workforce mobility** across Australia and reduce red tape for practitioners;
- facilitate the provision of **high quality education and training** and rigorous and responsive assessment of overseas-trained practitioners;
- have regard to the public interest in promoting **access to health services**; and
- have regard to the need to enable the continuous development of a **flexible, responsive and sustainable Australian health workforce** and enable **innovation in education and service delivery.**

For those professional groups currently registered in all jurisdictions; that is, physiotherapy, optometry, nursing and midwifery, chiropractic care, pharmacy, dental care (dentists, dental hygienists, dental prosthetists, and dental therapists), medicine, psychology, and osteopathy, the new scheme will commence on 1 July 2010.

The Intergovernmental Agreement also provides for the **addition of new professions to the scheme.** In 1995 the Australian Health Ministers' Advisory Council established six criteria for assessing health professions for inclusion in regulation schemes. These criteria were underpinned by the **requirement to demonstrate that the occupation's practice presented a serious risk to public health and safety which could be minimised by regulation.** These six criteria will be used for assessing the inclusion of partially regulated and unregulated health professions in the national registration and accreditation scheme.

The Profession of Speech Pathology within the Healthcare System

Speech pathology is a health occupation. Speech pathologists provide health care services to a range of adult and paediatric client groups, who have specific communication and/or swallowing impairments deriving from a variety of developmental and acquired aetiologies.

[1] Productivity Commission. (2005). Australia's health workforce: research report. Australian Government. www.pc.gov.au/projects/study/healthworkforce/docs/finalreport.

[2] Council of Australian Governments (2008). Intergovernmental Agreement for a National Registration and Accreditation Scheme for the Health Professions, Australian Government.

Speech pathology services can be broadly categorised into the following clinical areas:

- speech
- language
- pragmatics
- swallowing
- voice
- fluency.[3]

When providing services to patients presenting with disorders affecting these clinical areas, speech pathologists undertake the following activities as part of their intervention:

- assessment
- identification and diagnosis
- intervention including
  - liaison with family/significant others, relevant health practitioners
  - management
  - treatment
  - advocacy
  - community education and research.

Workplace contexts

Speech pathologists work in a variety of metropolitan, regional, rural and remote settings, including:

- hospitals
- rehabilitation services
- mental health services
- community health centres
- education facilities including kindergartens, primary and secondary schools, and universities
- private practice
- specialist services for those with complex communication and swallowing needs, arising from disorders such as autism, cerebral palsy and intellectual disability
- aged/residential care facilities.

Registration and Regulation

Speech pathology is a partially regulated health profession. Queensland is currently the only jurisdiction with legislation that requires all speech pathologists to be registered in order to practise and protects the title of the occupation. In all other jurisdictions, there is no publicly accessible register of appropriately qualified practitioners and no universal framework that provides the public with any assurance regarding the quality and safety of care delivered by speech pathologists.

This submission outlines the case for the national registration of the speech pathology profession to protect the health and safety of those people that the profession serves.

[3] Speech Pathology Australia. (2001). Competency-Based Occupational Standards – Entry Level. The Australian Speech Pathology Association Limited. Melbourne.

3. STRATEGIC DIRECTIONS:

Building trust, improving safety, and ensuring sustainability

*The **speech pathology profession's** submission for inclusion in the national registration scheme for health professionals is driven by a recognition of the need to build public trust through the provision of safe as well as sustainable health services. Three key strategic directions are central to fulfilling this goal: (1) guaranteeing the quality of health care by ensuring that the Australian community can readily identify speech pathologists who are appropriately qualified and skilled to provide speech pathology services; (2) improving consistency and confidence in processes of deploying the speech pathology workforce, and reduce the potential for impediments to flexibility and mobility of the workforce to arise in the future; and (3)within the context of interdependent, multidisciplinary healthcare service delivery, assuring equity of public access to services that meet high standards of quality and safety.*

Building trust in health care quality and sustainability

Preservation of trust is the starting point in securing the highest quality healthcare system for the Australian public. Professional regulation sustains the justified confidence of health consumers in the **safety and effectiveness of clinical practice by** implementing quality assurance and safety mechanisms to safeguard the public. This is achieved by:

- setting appropriate standards of conduct and competence;
- providing the public with an affordable and accessible means of securing a response to concerns about services they have received from health professionals
- providing an effective means to respond to instances of incompetent or unprofessional practice.

Regulation of health professions can do more than ensure public trust in the quality of their individual health care services. It can also establish public trust in the **sustainability of their national health and hospitals system.** This is why a national registration and accreditation scheme can best serve the public's safety and health interests by tackling the multiple needs identified by the Productivity Commission (2005, p. xx) in a co-ordinated way, that is, by:

- maintaining the provision of **high quality and safe health care**;
- adopting a **whole-of-workforce perspective**;
- **recognising the interdependencies** between the different elements of the health workforce arrangements and ensuring that they are properly coordinated;
- establishing **effective governance** arrangements for institutional and regulatory structures such that decision making processes are objective, informed by appropriate expert advice, transparent and reflect the public interest; and
- ensuring that services are delivered by staff with the most **cost-effective training and qualifications to provide safe, quality care.**

Improving quality and safety of speech pathology services

This submission argues that applying a single, national regulatory and accreditation process to the speech pathology profession will contribute to achieving these objectives through a number of means.

Identifying appropriately qualified and skilled speech pathologists

Currently speech pathologists are unregulated in all jurisdictions except Queensland. There is no publicly accessible register of appropriately qualified practitioners and no universal framework that provides the public with any

assurance regarding the quality and safety of care delivered by speech pathologists.

Regulation offers the opportunity to rectify this situation. It will ensure that the Australian community can identify those speech pathologists who are appropriately qualified and skilled to provide speech pathology services. It will set appropriate standards of conduct and competence; provide the public with an affordable and accessible means, through the national board, of securing a response to concerns about services they have received from speech pathologists; and provide an effective means to respond to instances of incompetent or unprofessional practice.

Protecting the public interest requires more than ensuring 'least harm'. It also demands the preservation of public trust in the capacity of the health professional's clinical practice to actually deliver the desired clinical results for patients. This includes improving the patient's prospects for a robust quality of life that provides for their educability, employability and social participation.

Improving consistency and confidence in the deployment of the speech pathology workforce

Many professions that have different State or Territory based registration requirements across the country face challenges in workforce mobility due to discrepancies in standards from jurisdiction to jurisdiction. The impact of the absence of speech pathology registration requirements in all but one State has a greater impact on consistency of recruitment practices and standards from organisation to organisation, and the opportunity for confidence in workforce deployment, than it does on workforce mobility specifically.

An effective national scheme that provides a consistent and efficient means of legally recognising practitioners' qualifications, experience, character, and fitness to practise, provides assurances of quality and safety, and specifies a professional code of conduct would contribute significantly to improving consistency and confidence in workforce deployment.

The 2005 Productivity Commission Report stated that it would not only seek to underpin accreditation and registration arrangements with nationally consolidated and coherent frameworks, but it would also drive reform to scopes of practice, and job design more broadly, while maintaining safety and quality; delivering a more co-ordinated and responsive education and training regime for health workers; and; providing the financial incentives to support access to safe and high quality care in a manner that promotes innovation in health workplaces.

Reforms to improve allied health recruitment, retention, and career pathways will also require the delivery of quality, seamlessly integrated allied health care services in all health care settings; that is, public and private hospitals, aged care facilities, private group-practice clinics, research and university institutes. Bringing the speech pathology profession under the umbrella of a single national registration and accreditation system is consistent with these objectives.

Responding to modern healthcare demands – regulating speech pathology in the context of an interdependent team

Workforce shortages

While the critical shortage of medical practitioners in Australia is well recognised, allied health professions are experiencing similar workforce challenges. This is reflected in many allied health professions - including speech pathology - being listed on the current Migration Occupations in Demand List (MODL) which provides for priority processing of General Skilled Migration Visa applications (Australian Government, Department of Immigration and Citizenship, 2008).

Allied health professionals include speech pathologists, occupational therapists, medical radiation practitioners, physiotherapists, pharmacists, psychologists, dietitians,

podiatrists, social workers and optometrists. Each of these professions requires completion of a profession specific university degree program for which academic entry standards remain high. Current medical workforce shortages have already engendered explicit policy responses to increase training of doctors and nurses, but there has been little response to existing and projected shortages in other areas. Even so, it must be recognised that the contribution that increasing the supply of professionals can make to resolving the complex health care quality and demand needs of today and the future has its limits (Productivity Commission, 2005, p.13). The 2005 Queensland Health Services Review reinforces this observation:

> *'Longer term innovative ways of delivering health services are needed to provide health care sustainability. Simply providing more doctors, more nurses, more beds and more money is unlikely to be sustainable.' (Queensland Health, 2005, p. vii)*[4]

Enabling safe and flexible workforce responses through comprehensive registration across the professions

Many health professionals, including those in the fields of physiotherapy, optometry, nursing and midwifery, chiropractic care, pharmacy, dental care (dentists, dental hygienists, dental prosthetists, and dental therapists), medicine, psychology and osteopathy, are currently regulated in every Australian jurisdiction. As a result, from 1 July 2010, they will come under the umbrella of the new national accreditation and registration scheme. The speech pathology profession, however, will not.

Despite this, the very nature of modern healthcare, and the demand for innovative service delivery in response to supply issues, means that speech pathologists provide their services as part of a multidisciplinary service delivery model alongside these other professions. Health professionals who remain outside the 'net' of a single national regulation and accreditation system will also lie beyond the reach of the quality assurance processes intended to protect the public's interest, safety, and health.

Even if these other health care service professions are to be excluded from the single national registration scheme, they will still operate within Australia's health care system, delivering their services in hospitals, health centres, schools, aged care homes, residential settings, research and education sectors; in cities, provincial centres and rural and regional areas across Australia. While they will work alongside their regulated health care partners in the public and private health sectors, they will not have to provide the same guarantees or assurances to the Health Ministers about their education quality, standards of practice, public safety management, and client health outcomes. Registration of the speech pathology profession, alongside the range of other professionals that work together on a daily basis, presents the greatest opportunity to improve and maintain the delivery of high quality, safe, sustainable, and accessible services to the public.

> ***'Australia will have a sustainable health workforce that is knowledgeable, skilled and adaptable. The workforce will be: distributed to achieve equitable health outcomes, suitably trained and competent.'***
>
> (National Health Workforce Strategic Framework, 2004, p. 12)[5]

[4] Queensland Health. (2005). Queensland Health Services Review. Queensland Government.

[5] Australian Health Ministers'Conference. (2004). National health workforce strategic framework. www.nhwt.gov.au/documents/National%20Health%20Workforce%20Strategic%20Framework/AHMC%20National%20Workforce%20Strategic%20

4. RESPONSES TO AHMAC CRITERIA FOR ASSESSING THE NEED FOR STATUTORY REGULATION OF UNREGULATED HEALTH OCCUPATIONS

4.1 Criterion 1

Is it appropriate for Health Ministers to exercise responsibility for regulating the speech pathology profession, or does speech pathology more appropriately fall within the domain of another Ministry?

The majority of Queensland speech pathologists carry out all or part of their work within the health sector, and regardless of the context that an individual speech pathologist works in, the overwhelming majority of those they work with have additional needs with a direct connection with one or more health issues, health professions, or health services. In this context, regulating the speech pathology profession through the Health Ministry presents the greatest opportunity to effectively protect the well being of the public.

The relationship of the speech pathology profession to the health sector

Of all Ministerial domains, the Health Ministry is the most appropriate to exercise responsibility for regulating the speech pathology profession. The Health Ministry also presents the greatest opportunity to effectively protect the well being of the public.

> *Over 65% of Queensland speech pathologists carry out all or part of their work within a health context. In other states that do not employ speech pathologists within the education system (such as NSW and WA),this proportion is likely to be significantly higher*[6]
>
> (Speech Pathologists Board of Queensland, 2006)

The role of the speech pathology profession is to facilitate an individual's abilities in effective communication and swallowing. Speech pathologists fulfill this role by providing services in a range of environments, including health, education, disability, rehabilitation, early intervention, childcare, aged care, legal services, corrective services, and universities. Extrapolating from Queensland data, **the majority of Australian speech pathologists carry out all or part of their work within the health sector.** This includes working with people from birth to old age within intensive care units, acute hospital wards, general hospital inpatient and outpatient services, rehabilitation programs, aged care services, hospital and community based mental health services, and community health services.

Regardless of the context that an individual speech pathologist works in—health, disability, education, aged care—**the overwhelming majority of the infants, children and adults they work with have additional needs with a direct connection with one or more health issues, health professions, or health services.** This connection might be associated with the cause of their communication or swallowing difficulties, other needs or diagnoses, or other medical and health specialists who they may see through hospitals, community health services, or private consultation services.

Recognition of speech pathology as a provider of health services

The speech pathology profession is well recognised as a provider of health services. The inclusion of the speech pathology profession in the Medicare Australia's Enhanced Primary Care

[6] Speech Pathologists Board of Queensland. (2006). Labourforce survey.

and Helping Children with Autism Programs are just two examples of this. Speech pathologists are also recognised as eligible health service providers by the Department of Veterans' Affairs, transport accident authorities, and worker's compensation authorities across Australia. Private health insurance companies also include speech pathology as a rebatable health service.

Australian and international registration through Ministries of Health

The Australian context

In Queensland, the Minister for Health exercises responsibility for the Speech Pathologists Board of Queensland. The Board was established to give effect to the *Speech Pathologists Registration Act 2001*, the *Speech Pathologists Registration Regulation 2001* and the *Health Practitioners (Professional Standards) Act 1999*. The Board's primary goals are:

- to protect the public by ensuring health care is delivered by registrants in a professional, safe and competent way;
- to uphold standards of practice within the profession; and
- to maintain public confidence in the profession.

Currently, no other States or Territories regulate the speech pathology profession in Australia.

The international context

Many other western countries already require speech pathologists to be registered, or are moving in this direction. In the majority of these countries—although not all—registration occurs through a state or national health department. Examples include:

- Speech pathologists in the United Kingdom are required to be registered with the Health Professions Council.
- South African speech pathologists are required to be registered with the Health Professions Council of South Africa, which operates under the direction of the Ministry for Health.
- 47 of the 50 states and one district in the United States of America require speech pathologists to be registered. Many of these are through the relevant health department; others are through administrative departments such as the Department of Consumer Affairs.
- In the near future, speech pathologists in Ireland will be required to be registered through the Department of Health and Children.
- Six of the thirteen Canadian provinces and territories require speech pathologists to be registered; five through the relevant health department and one through the Department of Justice. Canada is currently working towards a national process of speech pathology registration.
- The New Zealand Ministry of Health is currently assessing the case for national registration of speech pathologists.

Speech pathology's relationship to health in the future

The already strong relationship between speech pathology and health will continue to strengthen into the future. Advances in our understanding of neurosciences and rapid developments in health technology and pharmaceuticals will provide many opportunities for more sophisticated assessment and therapy for people's communication and swallowing needs.

'5.3. The objectives of the national scheme, to be set out in legislation, are to: (a) provide for the protection of the public by ensuring that only practitioners who are suitably trained and qualified to practice in a competent and ethical manner are registered . . .' (IGA)

Conclusion:

As a recognised provider of health services it is appropriate for the speech pathology profession to be regulated under the responsibility of Health Ministers.

4.2 Criterion 2

Do the activities of the speech pathology profession pose a significant risk of harm to the health and safety of the public?

> *By the nature of communication and swallowing disorders, speech pathologists work with people who are already physically, socially and emotionally vulnerable. When clinical procedures and standards are not carried out with due care and competence, and when complex clinical instrumentation is not used appropriately, patients are placed at significant risk of physical harm and sometimes death. Additionally, the risk of considerable compromise to an individual achieving their developmental, educational, social and vocational potential is high when opportunities are lost due to poor practice in diagnosing and supporting an individual's communication needs. This presents long term risks to both the individual as well as the broader community.*

Speech pathology practice carries inherent risks. Speech pathologists work within the complex and dynamic environment of healthcare. Therefore, by the nature of this work environment, they encounter and pose a variety of risks which can cause significant harm to patients, the wider public and speech pathologists themselves. In addition to the risks posed by the work environment, the activities performed by speech pathologists also pose significant risk of harm to public safety. Risks such as performing physically intrusive procedures, use of ionising radiation and providing services to particular high-risk client groups increase the threat of harm to patients who are treated by speech pathologists. In some instances, significant harm can also be caused to the wider community, and speech pathologists themselves. Where speech pathologists fail to maintain currency of practice, and fail to be aware of standards of practice, the risk of harm through incompetence is increased such that the consequences affecting public health and safety are significant and potentially fatal.

Risks to patients

Although high quality, evidence based, speech pathology, using appropriate methods and tools, offers many opportunities for significant positive outcomes for patients, compromising on any of these factors can lead to considerable physical, social, and psychological harm. Consequences of poor speech pathology practice can include any of the following recognised outcomes of errors or poor practice in health care:

- an investigation that is fruitless or unhelpful
- an original problem remaining unchanged
- a delayed diagnosis
- distress and discomfort, including suffering, fear and psychological impacts
- development of new risk factors that place the person or others at greater risk in the present or future
- worsening of the original problem
- development of a new problem
- physical harm or disability, ranging from minimal to severe and varying from being present only briefly to being permanent
- death.[7]

By the nature of communication and swallowing disorders, speech pathologists work with people who are already physically, socially and emotionally vulnerable. This is highlighted by the ability to communicate successfully being central to our social wellbeing and the vocational opportunities available to us. Equally safe and efficient swallowing skills are critical to our basic life-sustaining needs as well as being central to many of our opportunities for social engagement and connection.

[7] Medical Error Taxonomies Research Forum. (2003). Applied Strategies for Improving Patient Safety - Dimensions of Medical Outcomes. www.errorsinmedicine.net/taxonomy/asips/ASIPS_Victoroff_Taxonomy_650633600_full.pdf.

Risks to patients from failing to follow procedures and observe standards in managing swallowing disorders

When a person has had a stroke and has a swallowing problem, their risk of developing pneumonia is 12 times greater if they aspirate food or fluid while swallowing. Speech pathologists are skilled in assessing whether people can swallow safely, and making recommendations about safe feeding options for those who need them.[8]

(Speech Pathology Australia, 2008)

Swallowing disorders, or dysphagia, includes difficulties with sucking (especially for newborns and infants), managing saliva, chewing food, clearing food and drink from the mouth and throat, and protecting the airway. There are many situations that might contribute to someone experiencing dysphagia. Some of these include:

- premature birth
- a disability that someone is born with (e.g. cerebral palsy, Down Syndrome)
- a disability that someone develops later in life (e.g. multiple sclerosis)
- a structural abnormality (e.g. cleft palate)
- an injury (e.g. acquired brain injury)
- illness (e.g. a stroke, cancer of the head and neck).

People who have dysphagia are at increased risk of mortality and morbidity due to aspiration of food and fluid into the lungs, chest infections and pneumonia, dehydration and poor nutrition. They are also at risk of compromised long-term nutritional, hydration, oral hygiene and social needs. **Infants and children who have dysphagia are at specific risk of growth retardation and impaired intellectual, emotional and academic development.**

Timely and appropriate management of dysphagia reduces medical complications and dependence on alternative feeding options such as feeding tubes, intravenous hydration, and subcutaneous fluids, and enables more active participation in rehabilitation processes due to improved nutritional status.

Speech pathologists are recognised as specialists in the management of dysphagia and involvement in this work has been one of the biggest areas of development in the profession in the past 10-15 years. Today, dysphagia management is one of the largest specialties in the field.

55% of people with acute stroke suffer dysphagia and 25-42% people in inpatient rehabilitation settings who have an acquired brain injury, have dysphagia.[9]

(Speech Pathology Australia, 2005)

Speech pathologists are skilled in assessing whether children and adults can swallow their usual diet safely. This requires a detailed understanding of normal and disordered anatomy and physiology, as well as expertise in clinical beside assessment and instrumental evaluation of swallowing, which may include modified barium swallow assessments and fibreoptic evaluation of swallowing (FEES). These techniques will be discussed in more detail later in this section.

For those infants, children, and adults who are assessed as not being able to eat safely, speech pathologists focus on ensuring their nutritional needs can be met and their overall health maintained through providing:

- therapy and training in the use of swallowing strategies and techniques;
- exercise techniques that target the physiology of the muscles involved in swallowing

[8] Speech Pathology Australia. (2008). Prevalence and implications of communication and swallowing disorders.

[9] Speech Pathology Australia. (2005). Work value submission. The Speech Pathology Association of Australia Ltd. Melbourne

- diet and fluid modifications; and
- education of the patient, family and other professionals who care for and work with the patient.

When dysphagia is not identified and treated appropriately through following recognised best practice and defined clinical procedures and standards in each of these areas, affected individuals are at greater risk of medical complications and death. This fact is clearly illustrated in the events that lead to the death of Dimitra Damianou in South Australia in 2005.

> *At 79 years of age, Dimitra Damianou was hospitalised following a stroke which had significantly affected her ability to communicate and swallow her usual diet safely. For the first few days after her stroke, the speech pathologist recommended that Dimitra be given a vitamised diet. When Dimitra's condition improved, the speech pathologist tried a soft diet with Dimitra but this was unsuccessful, and the recommendation was made that she be given a minced diet. Despite this recommendation, Dimitra was given a soft diet for her next meal and while eating the soft meal she choked and aspirated some of the food into her airway. Although her choking was identified quickly, efforts to clear her lungs were not successful and she passed away as a result of a cardio-respiratory arrest.*
>
> *The Coroner's Court of South Australia found that Dimitra's death occurred 'after she had aspirated food provided to her that was not in accordance with dietary requirements that had been clearly documented within her ward by a qualified and experienced speech pathologist'.*[10]

For specific examples of risks to patients when speech pathologists fail to comply with practice standards in dysphagia, please refer to Appendix 1, Table 1.

Risks to patients from failing to follow procedures and observe standards in managing communication disorders

> ***8% of 962 parents/carers in the United Kingdom thought that the [speech] therapist did not have the necessary experience to deal with their child's needs.***
>
> (The Bercow Report, 2008)[11]

Speech pathology intervention can support people who have communication difficulties to achieve their developmental, educational, social and vocational potential and aspirations. With this in mind, it must also be understood that significant harm can be caused when opportunities are lost because of poor practice in diagnosing and supporting an individual's needs through use of appropriate procedures and following recognised standards.

The consequences of poor practice in relation to communication disorders are difficult to measure as they may not always be apparent immediately. However, as the following statement from a parent demonstrates, the challenges of measuring this type of risk should not stand in the way of attending to its critical importance in ensuring that safe and high quality services are available to children and adults alike:

> ***'I wish that my son had had constructive support on entering school at age four as this is when the condition became obvious and when it was easiest to treat. Lack of diagnosis, followed by lack of support led to his condition deteriorating.'***
>
> (The Bercow Report, 2008, p. 27)

The Bercow Report was commissioned by the United Kingdom, Department of Children, Schools and Families, to review services for children from birth to 19 years who have speech, language and communication needs. The Review summarised the multiple risks to children who

[10] Coroner's Court of South Australia, Finding of inquest, Damianou, D. 2nd & 3rd August, 2005. http://www.courts.sa.gov.au/courts/coroner/findings/findings_2005/damianou.finding.htm.

[11] Department of Children, Schools and Families. (2008). The Bercow report: a review of services for children and young people (0–19) with speech, language and communication needs. United Kingdom. www.dcsf.gov.uk/bercowreview.

have communication needs and do not receive, or benefit from, appropriate early intervention services as including:

- lower educational attainment
- behavioural problems
- emotional and psychological difficulties
- poorer employment prospects
- challenges to mental health
- criminal involvement.

With specific reference to the issue of criminal behaviour, the Bercow Report revealed that up to 60% of youth passing through young offenders' institutions have significant communication difficulties. These findings are also supported by Australian research:

> *'Our findings indicate that young offenders experience wide-ranging difficulties both in processing the language of others and in organising their own experiences, thoughts and ideas into spoken language that will foster prosocial relationships and enable participation across a range of social roles.'*
>
> (Snow & Powell, 2008, p.9)[12]

These findings reinforce the importance of early intervention and 'the danger of its absence' and the fact that 'if a child receives the right help early on, he or she has a better chance of tackling problems, communicating adequately and making progress' (The Bercow Report, 2007, p.15). Despite this knowledge, the Report noted that provision of 'the right help early on' might be compromised by inadequate assessment and diagnosis, leading to inappropriate support and intervention:

> *'Speech Language Impairment is not always distinguished from the far more prevalent speech and language delays, with the result either that no early intervention took place or that the wrong help was provided.'*
>
> (The Bercow Report, 2008, p. 27)

Currently, no nationally consistent, effective processes are in place in Australia to minimise the social risks to individuals and society that may arise from poor speech pathology practice.

Risks to patients resulting from the use of intrusive techniques

Many aspects of speech pathology intervention involve activities which are considered to physically intrusive. Such procedures pose an increased risk to public safety, through increased risk of harm to patients. Most of these activities are considered areas of advanced practice and should not be undertaken by those without additional and specialist training. Harm is likely to be minimised if a patient's response to an adverse event during these activities is appropriately monitored by an appropriately trained speech pathologist. When speech pathologists fail to comply with required competency and practice standards, and/or fail to perform within an agreed scope of practice when performing physically intrusive procedures, the likelihood of these risks occurring and causing harm to patients increases from 'unlikely' to 'almost certain'.

Use of assessment and therapy processes that are physically intrusive for patients is now common place in speech pathology practice. This presents a number of risks to the people speech pathologists work with. Each of the assessment and therapy techniques detailed here is considered an intrusive technique. All are recognised by Speech Pathology Australia and other health professionals with whom the speech pathologists work alongside, as being within the speech pathology scope of practice.

Fibreoptic Endoscopic Evaluation of Swallowing

Fibreoptic endoscopic evaluation of swallowing (FEES) involves passing a small, flexible tube with a light and lens on the end down through a person's nose so that their swallowing can be watched directly. FEES presents a number of physical risks to people having this procedure, including:

[12] Snow P. & Powell M (2008). Oral language competence, social skills and high-risk boys: what are juvenile offenders trying to tell us? Child and Society. Vol. 22, No. 1.

- involuntary sustained closure of the vocal cords, which prevents breathing (laryngospasm)
- nose bleeding
- fainting (syncope)
- person-to person and environmental contamination.

Speech pathologists often work with otolaryngologists when using FEES. Before using the FEES procedure themselves, speech pathologists must complete a formalised training program and achieve competence in the theory and practice of the technique. However, there is no formalised regulation of this process. FEES is recognised as an advanced and specialised area of practice and newly graduated speech pathologists do not have the skills to use this technique.

For specific examples of risks to patients when speech pathologists fail to comply with practice standards in FEES, please refer to Appendix 1, Table 2.

Tracheostomy Management

A tracheostomy involves the creation of a small opening in the front of the neck into the trachea and may be needed when someone has a blockage in their airway, is unable to protect their airway, needs to be ventilated for a long time, or needs removal of secretions from their airway. To provide easy access to the lungs, a hollow tube (a tracheostomy tube) is placed in the opening. People from infancy to old age can need a tracheostomy.

Risks and potential complications can arise for people who have a tracheostomy. Speech pathologists who fail to comply with practice standards for tracheostomy management pose a serious risk to patient safety including:

- compromised airway protection and inadequacy of the patients' airway
- person to person environmental contamination.

The consequences of these risks can be catastrophic.

Tracheostomy management is a specialty role and it is not appropriate for a newly graduated speech pathologist to undertake this work[13]. Training usually takes place within individual workplaces, with each service determining the type and amount of training needed, as well as the process for making sure professionals are competent.

For specific examples of risks to patients when speech pathologists fail to comply with practice standards in tracheostomy management, please refer to Appendix 1, Table 3.

Tracheo-oesophageal Voice Restoration

When a person has cancer or sustains a severe injury to their voice box (or larynx) they may need to have their larynx surgically removed. Their airway is permanently redirected to create a permanent opening in their neck to allow them to breathe. This surgical procedure is called a total laryngectomy, and removes a person's ability to communicate verbally. There are a number of options for giving someone a voice after they have had a total laryngectomy. One of these options is called tracheo-oesophageal speech. Tracheo-oesophageal voice restoration involves the surgical creation of a communication (or puncture) between the trachea and oesophagus. Once this puncture has been made, a speech pathologist inserts a one way valve into the puncture. The patient is then able to shunt air from their lungs, through the valve and into their throat, thereby giving the person a means of producing sound which they can use to speak.

The needs of people who use trachea-oesophageal speech are routinely supported by speech pathologists and otolaryngologists in hospitals and community health centres. The speech pathologist is the professional most frequently involved in managing all aspects of trachea-oesophageal speech rehabilitation.

[13] Speech Pathology Australia (2001). Competency based occupational standards. The Speech Pathology Association of Australia Ltd. Melbourne.

When speech pathologists fail to comply with practice standards for tracheo-oesophageal voice restoration, the likelihood of the following risks being realised and causing harm to patients increases significantly:

- Aspiration of food, fluids and stomach contents through the fistula into the lungs
- Tissue trauma, bleeding and discomfort from insertion of catheters, shunts, measuring devices and trachea-oesophageal valves. This might include damage to the trachea, damage to the fistula or oesophagus, breaching of the tissue space between the trachea and the oesophagus
- Infection of the fistula or mediastinum
- Accidental placement of catheters, prostheses and introducers into the oesophagus or trachea
- Fainting (syncope)
- Adverse reactions to adhesive preparations used with the tracheostomy valve
- Adverse reaction to local anaesthetic
- Person-to person and environmental contamination.

Supporting the needs of people who use tracheo-oesophageal speech is considered to be an advanced skill and requires specialist skill development beyond initial training. This is usually carried out in individual workplaces.

For specific examples of risks to patients when speech pathologists fail to comply with practice standards in tracheo-oesophageal voice restoration, please refer to Appendix 1, Table 4.

Neuromuscular Electrical Stimulation

Neuromuscular Electrical Stimulation (NMES) has been used as a therapeutic tool to treat muscular and neuromuscular injury/ disorders by other health professionals, such as physiotherapists. NMES involves the transcutaneous delivery of electrical stimulation via electrodes. Specialised equipment is required including a stimulus generator, a power source, control unit and electrodes (Speech Pathology Australia, 2008). It is emerging as a potential treatment tool for speech pathologists intending to treat dysphagia and facial paralysis.[14] However, strict guidelines regarding contraindications for the procedure mean that failure to comply with practice standards could result in serious harm to patients such as:

- fainting (syncope)
- dislodgement of superficial indwelling metal impants
- possible complications if used during pregnancy – not identified/defined in the literature
- possible cardiac complications if used on patients with an indwelling stimulator (eg. pacemaker, deep brain stimulator)

Risks to patients associated with exposure to dangerous substances

Handling of barium

A modified barium swallow (MBS), also known as a videofluoroscopy swallow study, is an x-ray procedure that is taken over time and videoed, rather than as a 'snap shot' on a single image. An MBS is used to assess a person's swallowing by asking them to eat and drink food that has a radio-opaque contrast (such as barium) in it. The radio-opaque contrast is illuminated when exposed to ionizing radiation, as occurs during an x-ray. This enables the path of the food/drink to be visualized during swallowing, along with the corresponding movement of anatomical structures. In many healthcare settings, MBS is performed jointly by a speech pathologist and radiographer and/or radiologist, working together. In most contexts, the speech pathologist is responsible for directing the procedure and indicating when the fluoroscopic screening equipment is to be activated.

Given that MBS assessments involve the use of food containing barium, there are potential risks to the public if food safety practices are

[14] Speech Pathology Australia (2008). Neuromuscular Electrical Stimulation – Position Statement. The Speech Pathology Association of Australia Ltd. Melbourne.

not adhered to. Currently, speech pathologists are required to follow the food safety practices defined by their health service and by state and national organisations such as Food Standards Australia and New Zealand. Despite this, the correct interpretation and monitoring of speech pathology compliance with these standards is unclear.

For specific examples of risks to patients when speech pathologists' failure to comply with practice standards, when performing MBS, please refer to Appendix 1, Table 5.

Risks to the wider public

The 'development of new risk factors that place the person or others at greater risk in the present or future' is an important consequence of poor health practice (Medical Error Taxonomies Research Forum, 2003, p. 3).[15] The harm caused to individual patients when poor speech pathology practice compromises developmental, educational, social, and vocational outcomes has already been outlined above. The secondary harm to the wider public when such outcomes cause unemployment, mental illness and criminal activity, must not be dismissed lightly.

Risks to speech pathologists

Risks associated with exposure to dangerous substances: radiation exposure during modified barium swallow assessments

Exposure to ionizing radiation can have negative biological effects, not only on the patient but also on staff who are in the range of the scatter of the ionizing radiation. Although information is available about the amount of exposure a member of the public experiences during x-ray procedures, there is no reliable information about the amount of radiation exposure to speech pathologists conducting MBS assessments. Individual workplaces, States and Territories take different approaches to monitoring speech pathologists' exposure to radiation. Wearing a lead apron during the procedure is standard across Australia; however, wearing additional protection such as a thyroid collar, glasses, and gloves varies considerably. In New South Wales it is compulsory to wear a device to monitor personal exposure to radiation; but in other States and Territories this is not a requirement. The risks involved in this procedure are illustrated through the Supreme Court case relating to Diena Wright:

> *In 2002 Diena Wright, a speech pathologist, presented her case to the Supreme Court of New South Wales suing her employers for negligence on the basis that she had developed cancer as a result of repeated exposure to radiation during MBS assessments. Although Diena wore a lead gown during these assessments, it was low cut at the neck and she was not made aware of the availability of neck protection until she had been undertaking MBS assessments without this protection for some years. Although a direct connection was made between Diena's cancer and her exposure to radiation, her claim did not proceed through the courts because of the length of time that had passed between her employment in the roles in question and when she brought her case to court.*[16]

Future risks

Trends in health care delivery

A series of interrelated issues have brought about much change in the Australian and international health care sector over the past two decades, including:

- continual advances in research and theoretical models
- rapidly advancing biotechnology and communication technology

[15] Medical Error Taxonomies Research Forum. (2003) Applied Strategies for Improving Patient Safety - Dimensions of Medical Outcomes. www.errorsinmedicine.net/taxonomy/asips/ASIPS_Victoroff_Taxonomy_650633600_full.pdf

[16] Wright v Central Coast Area Health Service, NSW Supreme Court, 06 September 2002. http://www.austlii.edu.au/cgi-bin/sinodisp/au/cases/nsw/NSWSC/2002/1351.html?query=title(Wright%20%20and%20%20Central%20Coast%20Area%20Health%20Service).

- greatly enhanced knowledge of underlying causes and processes of diseases and disorders
- increasing capacity to respond to complex patient needs through advanced assessment and treatment options, within complex service environments
- improved knowledge and increased expectations of the public regarding the nature, quality, and scope of healthcare they receive
- increasing rates of chronic disease
- workforce shortages in the context of an aging population.

Changes in the speech pathology profession

In response to this changing external context, and to concurrent developments in the profession itself, the knowledge base and unique skill-sets of the speech pathology profession have developed dramatically in recent years. These developments have resulted in significant changes in the nature and scope of the role and responsibilities of the profession, the conditions under which work is performed, and the expectations that other professionals and members of the public have of speech pathologists.

Implications of advanced and extended scope of practice

Advancing and extending the scope of practice of health practitioners has the potential to improve patient care. Even so, the speech pathology profession is well aware of the significant implications for patient health and safety that also exist as the scope of practice of any field changes. The profession recognises that if the continued evolution of its role does not occur in a systematic and structured way, in close relationship with other health practitioners, the opportunities for positive gains for healthcare will not be realised and the potential for harm may in fact be significantly increased. For example, if the existing advanced roles of speech pathologists in fibreoptic endoscopic evaluation of swallowing, tracheo-oesophageal voice restoration, tracheostomy management, and infant dysphagia management are to be further developed and sustained successfully, effective systems of credentialing and clinical governance must be in place in order that the risks to patient safety and quality of care are effectively circumvented in a universal rather than an ad hoc way.

The already significant need for such credentialing mechanisms is only likely to increase as speech pathology roles continue along their current trajectory towards:

- increased involvement in practices that are physically invasive;
- greater use of sophisticated equipment that has the potential to cause harm in the hands of poorly trained speech pathologists; and
- fulfilling the role of primary health practitioner with particular patient groups who at certain stages in their life do not have ongoing or regular involvement with a medical practitioner or other health professionals. This may include people who have progressive neurological conditions and people who require ongoing, and in many cases, lifelong speech pathology support, after a total laryngectomy or following radiation therapy to the head and neck.

Both within and beyond the speech pathology profession some professionals also support the possibility of appropriately experienced and trained speech pathologists:

- carrying out a broader range of clinical screening and diagnostic assessments for determining the underlying cause of a person's communication or swallowing disorder;
- identifying indicators for trialing of specific medications, and
- referring patients to specific medical specialists or allied health professionals.

This contrasts with the current requirement that speech pathologists ask their patients

to visit a medical practitioner in order that a prescription be written, or a referral to a specialist be made. In many instances this extra step only serves to fulfill the procedural requirements of the healthcare system rather than offering any additional value to the patient's care. This is particularly the case when the medical practitioner the patient visits to fulfill this function has no ongoing involvement in their care. It also creates delays in access to treatment, can be costly for patients, and places unnecessary strain on an already-burdened healthcare system.

There are many opportunities that the continued development of the profession in this direction would afford individual patients as well as the overall efficiency of the healthcare system. However, the speech pathology profession believes that in the absence of effective registration, accreditation, and credentialing processes it is unlikely that these opportunities can be realised safely or with the confidence of other professionals and the public.

Conclusion:

Speech pathology practices carry inherent risks due to the nature of client groups, clinical activities and work environment, which pose a significant risk of harm to the health and safety of the public.

4.3 Criterion 3

Do existing regulatory or other mechanisms fail to address health and safety issues for the speech pathology profession?

Existing mechanisms to address to public health and safety in relation to the speech pathology practice are fragmented, fail to provide universal coverage and lack appropriate powers for effectively protecting the public. Regulation of the profession by way of nation-wide registration would address the genuine risks of physical and social harm inherent in the speech pathology role and contribute to building and maintaining public confidence in services provided by appropriately qualified speech pathologists.

Existing mechanisms contributing to health and safety

A professional standard of care is established by codes of ethics and professional conduct, defined clinical competencies, scopes of practice and credentialing, and jurisdictional licensure laws such as statutory legislation. Although several existing mechanisms each contribute something to addressing health and safety issues relevant to speech pathology, these mechanisms are inadequate for two significant reasons:

1. none of the mechanisms successfully reach all speech pathologists; and
2. as individual, disconnected measures, they fail to offer effective protection to the public and practitioners in an integrated way within the context of the overarching purpose and accepted practices of the profession.

Examples of these mechanisms include:

- standards and guidelines required of members of Speech Pathology Australia
- clinical standards and practices of individual organisations

- clinical supervision requirements of individual organisations
- training and credentialing processes of individual organisations
- universal precautions relating to infection control
- food safety requirements
- legislation relating to radiation use
- organisational, State, and Territory requirements relating to exposure to radiation.

Contributions and limitations of Speech Pathology Australia in ensuring health and safety

> *'We will, in consultation with our clients, make sure that their best interests are expressed and protected. We evaluate the services we provide to ensure that they are as effective as possible. We provide services only if our clients can reasonably expect to benefit from them'.*[17]
>
> (Speech Pathology Australia, 2000, p. 3)

With membership of Speech Pathology Australia not being compulsory, and the Association playing no role in credentialing individual clinicians in specific clinical skills, it holds no capacity or power to enforce compliance with defined clinical or professional standards.

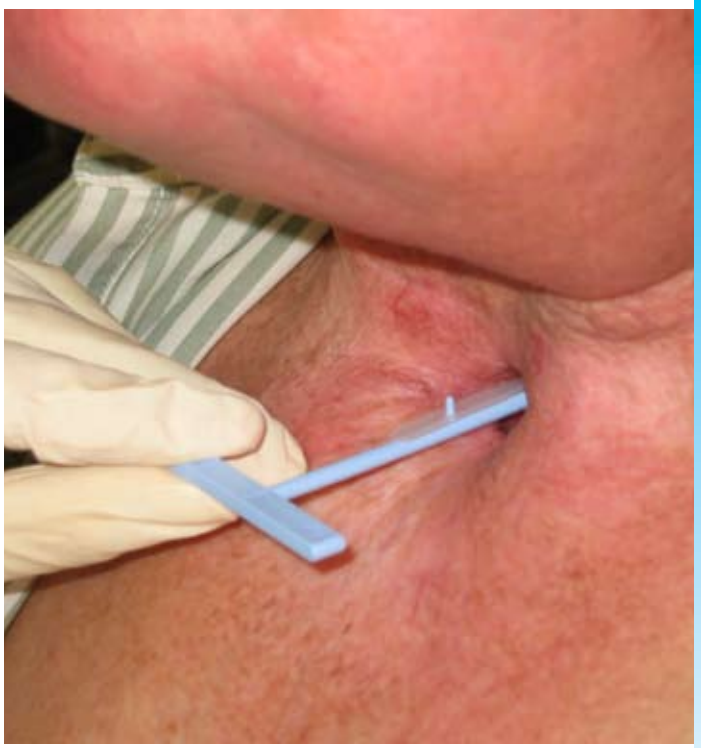
Those who are members of the Association are required to uphold the well defined standards relating to a wide range of issues including professional ethics, scope of practice, and standards of practice that are outlined in the following Association documents:

- Code of Ethics (2000)
- Competency-Based Occupational Standards (2001)
- Scope of Practice (2003)
- Professional Self Regulation (2000)
- Principles of Practice (2001)
- Parameters of Practice (2007)
- Position Papers and Statements addressing the role of speech pathologists in specific clinical areas such as Dysphagia (2005), Tracheostomy Management (2005), Dysphagia: Modified Barium Swallow assessments (2005), Fibreoptic Endoscopic Evaluation of Swallowing (2007) and Neuromuscular Electrical Stimulation (2008)
- The Role and Value of Professional Support (2007).

Professionals who breach these standards can have their membership to the Association suspended or removed, however this does not offer effective protection to the public as it does not limit individuals from continuing to practice.

Understanding the limitations of Speech Pathology Australia through recognising the contributions of the Speech Pathologists Board of Queensland

Although few formal complaints of professional misconduct and incompetence or legal action have been lodged against speech pathologists, the trends in the Queensland Board's data and that of Speech Pathology Australia reveal significant increases in the number of complaints received.



[17] Speech Pathology Australia. (2000). Code of Ethics. The Speech Pathology Association of Australia Ltd. Melbourne.

Queensland is the only Australian State or Territory that requires practising speech pathologists to be registered. Unlike Speech Pathology Australia, when required, the Speech Pathologists Board of Queensland has the legal right and responsibility to enforce responses to complaints and, in certain circumstances, to follow up on complaints even when a complainant chooses not to lodge their concerns in writing.

Data from both Speech Pathology Australia and the Speech Pathologists Board of Queensland reveal an increasing number of complaints regarding professional conduct and competence. In the financial years 2003/2004, 2004/2005 and 2005/2006, the Speech Pathologists Board of Queensland received only 1 complaint, in 2006/2007, 2 complaints were received, and in 2007/2008, 12 complaints were received. Given that a similar increase in complaints was also seen in 2007/2008 across other professions registered in Queensland, it is likely that this is indicative of a trend of increased public and professional awareness of the important role and contribution of the Board in relation to public safety and confidence.

In 2006 and 2007, Speech Pathology Australia received 23 and 30 complaints respectively. By August 2008, 19 complaints had been received for the year. Despite these numbers, since mid 2005, only three complainants have chosen to formalise their concerns. This reinforces the minimal impact the Association can have in responding to specific issues. This is the case even in situations of considerable concern, including:

- a complaint from a speech pathologist that another speech pathologist may have contributed to the death of a patient who had dysphagia
- a complaint from a parent – who had not been allowed to sit in on her child's session – that her child reported being physically assaulted by the speech pathologist.

The trends in this data are likely to continue as more complaints about speech pathology practice arise as a result of:

- an increase in the number of speech pathologists in the workforce due to increased numbers of university places provided for entry level
- greater access to speech pathology services
- implementation of new therapeutic techniques, innovative technologies and diagnostic instrumentation, including physically intrusive procedures
- extending scope of practice of speech pathologists
- increased professional autonomy within healthcare context and private practice.
- new modes of service delivery as part of a strategy to move more healthcare from hospital-based settings to the community, resulting in lack of practice standards in these non-traditional contexts (eg. domiciliary services)
- increased consumer awareness and participation in healthcare
    - unrealistic expectations of the application and outcome of new treatments promoted through the media and internet
    - greater awareness of patient rights including 'Freedom of Information'
    - an increase in litigation against speech pathologists in order to pursue damages for personal injuries sustained during speech pathology practice.

The contributions and limitations of individual organisations in ensuring health and safety

Although many workplaces require prospective employees to be *eligible* for membership of Speech Pathology Australia, membership itself is rarely mandated by employers. The one exception to this is within the private sector where private speech pathologists are only eligible for a Medicare provider number if they are members of Speech Pathology Australia. Patients who receive services from private speech pathologists who do not have a provider

number are not eligible to receive health insurance rebates. However, the inadequacy of this mechanism is evident in the fact that private health insurance funds fail to routinely monitor speech pathologists' maintenance of their Association membership once a provider number has been allocated.

The ongoing monitoring of both clinical competence and quality of clinical care provided by individual clinicians is highly variable across service settings. Some services have highly robust training and monitoring processes, particularly in relation to dysphagia management and other areas of specialist care such as tracheostomy management and MBS assessment. In other organisations, there may be no such mechanisms. In particular, speech pathologists who work alone and those working in rural and remote areas may not have ready access to mechanisms that provide optimal skill development and competency assessment.

Conclusion:

As a profession regulated only in the state of Queensland, existing regulatory and other governance mechanisms fail to address health and safety issues relating to speech pathology practice Australia wide.

4.4 Criterion 4

Is regulation possible to implement for the speech pathology profession?

The speech pathology profession in Australia is well positioned and committed to operating within the new national registration and accreditation framework. As a profession it has a well-defined role in working with individuals from birth to old age to fulfil their right to have an effective means of communication and swallowing. It has an established body of teachable knowledge, standards of practice, and clearly articulated functional competencies that equip them to work collaboratively with people who have communication and swallowing disorders.

Speech pathology as a well defined profession

Speech pathologists are university trained health professionals who are specialists in the assessment and treatment of a wide range of communication and swallowing disorders that may be present from birth through to old age. These disorder can be associated with diagnosed impairments, genetic conditions, medical conditions, trauma, developmental delays, cultural and linguistic diversity, and socio-economic issues. The people speech pathologists work with may have specific difficulties with speech, voice, fluency, understanding language, using language, social skills, problem solving, literacy, and swallowing.

The first Australian speech pathology clinic was established in 1931 and a professional association for Australian speech pathologists (now Speech Pathology Australia) was formed in 1949. For nearly 60 years the Association has established and governed the evolving ethical and clinical standards of the profession.

'Speech pathologists undertake to provide a high quality service to individuals, service providers and the community and to maximise these functions through assessment and identification, intervention, appropriate liaison, management, advocacy, community education and research'

(Speech Pathology Australia, 2001, p. 3)[18]

The contemporary role and focus of the speech pathology profession is both well defined and readily understood by those within the profession and their other professional partners. This role is consistently reflected in documents produced by Speech Pathology Australia, including the Code of Ethics (2000), Competency-Based Occupational Standards – CBOS (2001), Scope of Practice (2001), Competency Assessment in Speech Pathology – COMPASS™ (2006) and Parameters of Practice (2007). It is also reflected in the educational qualifications undertaken by speech pathologists, the process of accrediting university degrees, and the focus of continuing professional development programs.

The knowledge base of speech pathology

The speech pathology profession is built on the integration of a large body of knowledge from several disciplines, including the biomedical sciences, linguistics, psychology, neurosciences, education, and mental health.

This body of knowledge is both taught and assessed through undergraduate Bachelor's degree programs and graduate-entry Masters programs within universities across Australia and internationally. Additionally, continuing professional development programs developed and offered by Speech Pathology Australia, other organisations, and individual professionals, reflect the capacity for the required knowledge and skill base of the field to be taught and assessed in a range of contexts.

Functional competencies of the speech pathology profession

The functional competencies of speech pathologists are well defined by the profession and are reflected in documents produced by Speech Pathology Australia, including:

- Competency Based Occupational Standards (CBOS) (2001)
- Standards for re-entry into the profession
- Position papers on specific areas of clinical practice.

CBOS provides detailed information regarding the minimum knowledge, skills and attributes required for commencement into the profession of speech pathology. It includes detailed standards relating to assessment; analysis and interpretation; planning of speech pathology intervention; intervention; planning, maintaining and delivering services; providing professional, group and community education; and professional development. The standards outlined in CBOS are similarly applied to those who have overseas qualifications, and those who are re-entering the profession and do not meet the Association's standards regarding recency of practice.

Accreditation of speech pathology training programs

Speech Pathology Australia is recognised by the Department of Education, Employment and Workplace Relations, as the professional body representing speech pathologists in Australia. As such, it is acknowledged as both an accreditation authority for university speech pathology degree programs and an assessing authority for those who have overseas qualifications.

All Bachelors and Masters level entry programs in Australia are accredited using CBOS. University speech pathology programs accredited by Speech Pathology Australia have demonstrated that their graduates have attained CBOS entry level competencies. There are currently 8 accredited Bachelor's level speech

[18] Speech Pathology Australia. (2001). Competency-Based Occupational Standards - Entry Level. The Australian Speech Pathology Association Limited. Melbourne.

pathology programs offered across Queensland, New South Wales, Victoria, South Australia, and Western Australia. A further 6 accredited Masters level entry programs are available across these same 5 states.

Individuals who graduate from any of these accredited university programs qualify for membership of Speech Pathology Australia.

Conclusion:

As a well defined profession currently operating under a solid knowledge base and clear competency standards, regulation of the speech pathology profession can be readily implemented under the proposed scheme.

4.5 Criterion 5

Is regulation practical to implement for the speech pathology profession?

The leadership of Speech Pathology Australia, the Speech Pathologists Board of Queensland, and speech pathologists across Australia are in alliance in recognising the current inadequacies of the existing mechanisms available for ensuring the health and safety of the public it serves. In seeking national registration, the profession has articulated a commitment to improving this situation in the public interest, rather than occupational self-interest. The profession is robust in numbers and as result believes that national registration can be achieved in a cost efficient way.

The inadequacy of self regulation

Membership of Speech Pathology Australia

As membership of Speech Pathology Australia is not mandatory, and few workplaces require anything more than eligibility for Association membership as a condition of employment, self regulation of the speech pathology profession does not offer a means of effectively ensuring that the interests of the public are successfully met. In Queensland – where the requirement of registration makes it the only State or Territory where reliable workforce data is available – 1 in 4 speech pathologists are not members of the Association. Assuming that this figure is similar in other areas of Australia, it is possible that over 1000 speech pathologists may be operating outside any formal, profession-specific expectations.

Continuing professional development

The Association offers members the opportunity to be recognised as a Certified Practicing Speech Pathologist (CPSP) through undertaking appropriate continuing professional development through a Professional Self Regulation Program. Despite this opportunity,

only 58% of eligible members participate in the program, with only 30% of practising members having attained the status of Certified Practising Speech Pathologist.

Recency of practice

Speech Pathology Australia offers professionals who do not meet recency of practice requirements the opportunity to undertake a reentry program. Again, this process is entirely dependent on individuals seeking to participate in the process. Except for speech pathologists in Queensland, individuals reentering the workforce who do not seek to become members of the Association are free to practice regardless of the time that has lapsed since their last involvement in the field.

Serving the best interest of the public

The efforts of the leadership of the speech pathology profession are focused on ensuring that the interests of the public are met, and that professional self interest does not override this obligation. This is reflected in the work that professional leaders have invested at many levels, including:

- **Speech Pathology Australia** through the guidelines that inform its core business on a day to day basis including:
  - Core Association publications;
  - accreditation of university programs;
  - assessment of overseas qualifications;
  - reentry requirements; and
  - other programs and documents that are currently being developed in relation to credentialing and extended scope of practice.
- **The Speech Pathologists Board of Queensland** through:
  - maintaining effective registration processes;
  - establishing and implementing the Health Assessment and Monitoring Program for speech pathologists whose own health concerns might compromise their capacity to work safely with the public; and
  - current work being carried out on developing guidelines for Recency of Practice.
- **Speech Pathologists within individual workplaces** who:
  - contribute to the development of clinical standards and professional skill development
  - monitoring and remediation to ensure that the public receives the best possible care.

Implementation of national registration is considered by professional leaders in each of these contexts as being the critical next step in strengthening these processes and establishing greater consistency from which public confidence and safety can be further enhanced.

Professional commitment to and compliance with registration

The issue of national registration of the speech pathology profession was discussed at a recent Annual General Meeting of Speech Pathology Australia. In the presence of a broad cross-section of the profession, it was unanimously agreed that working towards this end was an important and appropriate step to take.

In Queensland, where registration is currently mandated, the obligations as well as the opportunities afforded by the legislative requirements of professional registration are well accepted and respected by the absolute majority of the field. There is no reason to believe that this situation would be any different in other States and Territories of Australia.

Financial sustainability of national registration

With approximately 3800 qualified speech pathologists who are members of Speech Pathology Australia, and possibly a further 1000 non-members, the profession has sufficient numbers to make national registration of the

profession feasible. It is worth noting that on a much smaller scale the current Speech Pathologists Board of Queensland is self-funding. The economies of scale available in operating a single national board suggest that there should be no difficulties in achieving financial self-sustainability within the proposed model.

Speech pathologists have expressed their support for movement towards national registration in the knowledge that this would involve a personal financial outlay through the payment of registration fees.

Conclusion:

Regulation under the National Registration and Accreditation Scheme will be practical to implement for the speech pathology profession and can be achieved within the framework of financial self-sustainability.

4.6 Criterion 6

Do the benefits to the public, of regulating the speech pathology profession, clearly outweigh the potential negative impacts of such regulation?

> *Inclusion of the speech pathology profession in the national registration and accreditation scheme will provide a sound framework to manage the potential risks to public safety that may arise from speech pathologists working without the support and governance of rigorous quality assurance mechanisms. The design of the intended national registration scheme circumvents many of the negative impacts that have been associated with regulation of health professions in the past.*

Regulation of the profession by way of nation-wide registration would address the genuine risks of physical and social harm inherent in the speech pathology role and contribute to building and maintaining public confidence in services provided by appropriately qualified speech pathologists.

Regardless of whether it is consumers or professionals who demand regulation, the rationale for occupational regulation has typically been to protect the public's health and safety by guaranteeing a mandatory quality standard. The proposed single national regulatory system, safely implemented with the requisite quality assurance controls, will present the opportunity to positively influence workforce supply and mobility of qualified speech pathologists at a time of tight labour market pressures.

There are many implications of regulation that are recognised as having the potential to have a negative impact. Some of these include increases in costs to patients and the health system, increased market control, building of professional status and power, restriction of entry, suppression of innovation, and reduced consumer choice.[19]

'What price do we put on the benefits of patients' peace of mind and public confidence?

How do we cost lives scarred by grief in families who have lost those they love?

Can we measure the frustration and anxiety of health professionals enmeshed unnecessarily in national professional regulatory procedures?

How do we measure the costs of a sense of having been unjustly treated?'

(Department of Health, United Kingdom, 2007, p. 20)[20]

Despite these recognised risks, the design of the Intergovernmental Agreement is such that the likelihood that they will arise in ways that have a significant negative impact is minimal. Features of the Intergovernmental Agreement that contribute to this include its focus on:

- ***the quality of health care services***—through focusing on public interest and safety as the benchmarking criteria for occupational inclusion in the scheme.
- ***minimising the risk of professional self-interest***—through legislating that one-third of the profession-specific National Board is made up of members drawn from outside the relevant profession, including at least two community members.
- ***the availability of health professionals' services***—by benchmarking criteria against the capacity for health workforce mobility, flexibility, and access of supply.
- ***the development of a sustainable health workforce***—by recognising the importance of flexibility and responsiveness, including acknowledgement of the critical role of innovation in education and service delivery.

With these issues in mind, the multiple benefits to the public of regulating the speech pathology profession through a single, national registration and accreditation process considerably outweigh the relatively insignificant costs, and include:

- ***locking in national standards to deliver quality, timely, flexible health care services to the public.*** Within a registration framework that demands both appropriate qualifications, as well as evidence of currency of skills through a mandated continuing professional development program, the public will be afforded the opportunity for greatly enhanced confidence in the speech pathology services they receive. The potential for false claims regarding qualifications and skills would be very significantly reduced.
- ***delivering a consistent approach to such issues as title restrictions (an important signifier of qualifications), expertise, experience, character, and fitness to practice.*** By restricting the use of professional titles relevant to the speech pathology profession, the public will be provided increased protection through the enforcement of nationally consistent standards for speech pathologists' qualifications, skills and competence. Offering speech pathologists the right to use titles protected by legislation also reinforces to both the profession as a whole, and individual professionals, their obligations to uphold relevant professional standards and ethics.
- ***overcoming the disadvantages arising from inconsistencies in how suitably qualified speech pathologists are recognised and therefore removing impediments to efficient workforce deployment.*** Currently the processes for identifying suitably qualified speech pathologists vary enormously. Queensland law requires that speech pathologists be registered, and professionals moving to this state are unable to practice until this requirement is satisfied. Across other areas of Australia, some individual workplaces require membership of Speech Pathology Australia, but others simply require eligibility for membership. Private health insurance companies require

[19] Carlton. A. (in-press). Occupational regulation of health practitioners in Australia. Federation Press.

[20] Department of Health. (2007). Trust, assurance and safety – the regulation of health professionals in the 21st century, United Kindgom. www.official-documents.gov.uk/document/cm70/7013/7013.pdf.

membership of Speech Pathology Australia, but there is no effective monitoring of compliance with this requirement. Introduction of uniform standards that are portable across the nation would serve both the public and prospective employers well. The public would be afforded the confidence that comes with minimum standards and quality of practice being mandated regardless of where they live. Employers would benefit from the knowledge that they are able to recruit professionals who are appropriately trained and skilled to undertake the roles required of them.

- ***facilitating a national, across-profession approach to the speech pathology workforce.*** As the only State or Territory requiring registration of speech pathologists, Queensland is the one location for which reliable, comprehensive workforce data is available. The absence of this information at a national level presents significant risks to being able to prepare to effectively meet the future needs of the community. In the context of current and anticipated long term future workforce pressures, and the continuing changes in scope of practice and specialisation of the speech pathology profession, a single, national registration body would make a significant contribution to the capacity to respond to these challenges.

  An example of the importance of this issue is reflected in recent research data showing that 13% of current members of Speech Pathology Australia intend to leave the profession in the next 12 months. Lack of recognition of their expertise and skill by their colleagues and managers was stated as a significant contributing factor to this issue.[21]

- ***offering administrative and compliance cost savings*** to a costly, tax-payer funded health care system.

- ***offering opportunities for more effective, consistent collection and collation of data,*** offering opportunities for meaningful benchmarking regarding service provision across the country.

- ***providing both the public and other professionals with increased clarity regarding pathways for lodging complaints.*** Management of complaints outside the profession's peak body, Speech Pathology Australia, has the potential to offer complainants the best opportunity of confidence in their concerns being addressed with objectivity.

Conclusion:

Regulation of the speech pathology profession will provide benefits to the public that far outweigh potential negative impacts of regulation, which themselves can be minimised through a national scheme.

[21] McLaughlin, E. (2008). An investigation into why Australian speech pathologists leave their job or the profession. PhD Thesis. The University of Sydney.

5. CONCLUDING STATEMENT:

Safer health care through responsive regulation[22]

> *'[T]he quality of patient care has increasingly become a shared responsibility for organisations, the teams within them, and the individual health professionals within those teams'.*[23]
>
> (Department of Health, United Kingdom, 2007, p. 17)

The Australian health care context is being significantly influenced by a changing mix of disease patterns, greater expectations from the public in terms of the quality and types of health services available to them, rapidly advancing technology, new models of health care to accommodate wider treatment options, a changing age profile that will demand increased health expenditure, and an aging health workforce (Productivity Commission, 2005).[24]

Although the core role of the speech pathology profession remains focused on the needs of individuals who have communication and swallowing disorders, changes in the broader health care context are resulting in equally significant changes in the speech pathology profession generally and the delivery of speech pathology expertise specifically. Speech pathology patients with increasingly complex needs have ever expanding access to highly advanced diagnostic and therapeutic processes. Although these developments bring many opportunities for enhanced patient wellbeing and quality of life, when they are not offered within a health care system that is systematically focused on the delivery of high quality, safe services they can also present significant risks to individual's physical, social and emotional well-being.

Currently, a degree of information asymmetry exists between consumers and health service providers, that is, it is difficult for individual health consumers to assess the competence of their health practitioner or the quality of the services they are providing. Regulatory systems provide the public with an assurance that registrants have met exacting standards regarding the qualifications required to be registered as a speech pathologist. This measure, combined with the restriction of professional title afforded by legislation, provides consumers with a statutory benchmark about who is entitled to offer their services as a speech pathologist.

In recent years, although the speech pathology profession has done a great deal to introduce measures to optimise public health and safety, the absence of a unifying framework that is universally binding for all practitioners means that these efforts are fragmented, fail to provide comprehensive coverage, and lack appropriate powers to provide effective public protection. Regulation of the speech pathology profession through the nation-wide registration and accreditation scheme would address the genuine risks of physical, social and emotional harm inherent in the speech pathology role and contribute to building and maintaining public confidence in services provided by appropriately qualified speech pathologists.

On behalf of the speech pathology profession we commend this to the Practitioner Regulation Subcommittee on behalf of the Speech Pathology Profession.

Dr Cori Williams	National President Speech Pathology Australia
Ms Meredith Kilminster	Chair Speech Pathologists Board of Queensland

4 October 2008

[22] Title taken from 'Designing safer health care through responsive regulation' by Judith Healy and John Braitwaite. MJA Vol 184. No.10 15 May 2006. pS56

[23] Department of Health. (2007). Trust, assurance and safety – the regulation of health professionals in the 21st century, United Kindgom. www.official-documents.gov.uk/document/cm70/7013/7013.pdf.

[24] Productivity Commission. (2005). Australia's health workforce: research report. Australian Government. www.pc.gov.au/projects/study/healthworkforce/docs/finalreport.

APPENDIX 1:

TABLES OF RISKS RELATING TO SPEECH PATHOLOGY PRACTICE

Table 1

Risks to Patients When Speech Pathologists Fail to Comply with Practice Standards - Dysphagia

RISK	IMPACT
• Inappropriately advised to take diet and fluids that are more difficult to swallow – or inappropriate recommendations for oral diet/fluids such that food/drink is more difficult to swallow	• Malnutrition • Dehydration • Aspiration pneumonia • Airway obstruction/asphyxiation • Requires medical intervention +/- hospitalisation • Death • Legal action taken
• Inappropriately advised to take diet and fluids that are more likely to be aspirated	• Malnutrition • Dehydration • Aspiration pneumonia • Airway obstruction/asphyxiation • Requires medical intervention +/- hospitalisation • Death • Legal action taken
• Inappropriately advised to forego oral intake due to perceived difficulties swallowing, with delay in providing alternative nutrition and hydration	• Malnutrition • Death • Legal action taken
• Undergoes unnecessary surgical procedure for the placement of a feeding tube	• Requires medical intervention +/- hospitalisation • Increased length of stay due to surgical complication • Legal action taken
• Inappropriately advised to participate in a therapy program e.g.; patient with motor neurone disease advised to perform strengthening exercises	• Swallowing and respiratory function compromised • Requires medical intervention +/- hospitalisation • Legal action taken
• Not referred for medical assessment following the identification of an oral lesion during clinical examination	• Requires medical intervention +/- hospitalisation • Side effects/complications associated with complex treatment required for more extensive disease (as compared to disease that is identified as an early stage malignancy) • Increased length of hospital stay • Permanent disability • Death • Legal action taken
• Ingests food/fluid provided by speech pathologist which has been contaminated with bacteria	• Requires medical intervention +/- hospitalisation • Legal action taken
• Acquires healthcare-associated infection through person-to-person or environment-to-person contamination (eg. cross-infection between patients as a result of speech pathologist failing to comply with hand hygiene practice standards)	• Requires medical intervention +/- hospitalisation • Death • Legal action taken
• Sustains injury as the result of inappropriate manual handling practice	• Requires medical intervention +/- hospitalisation • Increased length of hospital stay • Legal action taken

Table 2

Risks to Patients When Speech Pathologists Fail to Comply with Practice Standards When Performing Physically Intrusive Procedures - Fiberoptic Endoscopic Evaluation of Swallowing (FEES)

RISK	IMPACT
• Epistaxis	• Significant bleeding requiring cauterisation or hospital admission
• Laryngospasm	• Acute respiratory difficulties • Requires medical intervention +/- hospitalisation
• Syncope collapse (such as vasovagal response)	• Loss of consciousness • Sustains injury during the episode • Requires medical intervention +/- hospitalisation
• Inaccurate interpretation of findings resulting in inappropriate recommendations for diet and fluids, and/or inaccurate, ineffective therapy program	• Aspiration pneumonia • Airway obstruction/asphyxiation • Requires medical intervention +/- hospitalisation • Death • Legal action taken
• Not referred for medical assessment following the identification of pharyngeal or laryngeal lesion	• Requires medical intervention +/- hospitalisation • Side effects/complications associated with complex treatment required for more extensive disease (as compared to disease that is identified as an early stage malignancy • Increased length of hospital stay • Permanent disability • Death • Legal action taken
• Food/drink contaminated	• Hospital admission may be required to manage
• Acquires healthcare-associated infection through person-to-person or environment-to-person contamination (e.g.. through failure to appropriately clean and disinfect related equipment	• Requires medical intervention +/- hospitalisation • Death • Legal action taken
• Personal injury	• Requires medical intervention +/- hospitalisation • Increased length of hospital stay • Legal action taken

Table 3

Risks to Patients When Speech Pathologists Fail to Comply with Practice Standards When Performing Physically Intrusive Procedures -Tracheostomy Management

RISK	IMPACT
• Cuff of tracheostomy tube is inappropriately deflated, resulting in saliva, food and fluid entering the lungs	• Aspiration pneumonia • Requires medical intervention +/- hospitalisation • Readmission to ICU • Death • Legal action taken
• Placement of a speaking valve with cuff inflated on a tracheostomy tube	• Patient cannot exhale, resulting in over-inflation of airways/asphyxiation • Requires medical intervention +/- hospitalisation • Death • Legal action taken
• Syncope collapse (such as vasovagal response) during management of a tracheostomy tube	• Loss of consciousness • 'Code Blue' status • Requires medical intervention
• Loss of airway due to tracheostomy tube occlusion or accidental decannulation. Clinician fails to understand actions required	• Airway obstruction/asphyxiation • 'Code Blue' or emergency status requiring medical intervention • Death • Legal action taken
• Insufficient humidification of tracheostomy tube and patient's airways, resulting in tube occlusion. Clinician fails to recognise pending emergency or to contact appropriate colleague	• Airway obstruction/asphyxiation • Potential medical emergency • Death • Legal action taken

Table 4

Risks to Patients When Speech Pathologists Fail to Comply with Practice Standards When Performing Physically Intrusive Procedures - Tracheoesophageal Voice Restoration

RISK	IMPACT
• Incorrect sized tracheoesophageal voice prosthesis inserted	• Unable to communicate • Aspiration of food/fluid causing aspiration pneumonia, malnutrition, death
• Failed attempt to insert tracheoesophageal voice prosthesis/catheter/shunt/sizing device causes tissue trauma; creates a false tract/ fistula	• Bleeding • Discomfort
• Failed attempt to insert tracheoesophageal voice prosthesis/catheter/shunt/sizing device creates a false tract/fistula	• Surgical procedure required to repair • Increased risk of aspiration via the tract/ fistula
• Syncope collapse (such as vasovagal response) during insertion of tracheoesophageal voice prosthesis	• Loss of consciousness requiring hospital admission
• Foreign body falls into trachea and unable to be retrieved	• Lung infection • Surgical procedure required to retrieve
• Adverse reaction to adhesives used to secure tracheoesophageal puncture not identified	• Local infection

Table 5

Risks to Patients When Speech Pathologists Fail to Comply with Practice Standards When Performing Physically Intrusive Procedures - Modified Barium Swallow (MBS)

RISK	IMPACT
• Inaccurate interpretation of findings resulting in inappropriate recommendations for diet and fluids, and/or inaccurate, ineffective therapy program	• Aspiration pneumonia • Airway obstruction/asphyxiation • Requires medical intervention +/- hospitalisation • Death • Legal action taken
• Syncope collapse (such as vasovagal response)	• Loss of consciousness requiring hospital admission
• Food/fluid contaminated with bacteria	• Hospital admission may be required to manage
• Not referred for medical assessment following the identification of anatomical variant such as malignancy or other structural defect	• Airway obstruction/asphyxiation • Requires medical intervention +/- hospitalisation • Side effects/complications associated with complex treatment required for more extensive disease (as compared to disease that is identified as an early stage malignancy • Increased length of hospital stay • Permanent disability • Death • Legal action taken
• Acquires healthcare-associated infection through person-to-person or environment-to-person contamination (eg. cross-infection between patients as a result of failing to comply with hand hygiene practice standards)	• Requires medical intervention +/- hospitalisation • Death • Legal action taken
• Excessive ionising radiation exposure causing malignancy	• Requires medical intervention +/- hospitalisation • Side effects/complications associated with complex treatment required for more extensive disease (as compared to disease that is identified as an early stage malignancy • Increased length of hospital stay • Permanent disability • Death • Legal action taken

the speech pathology profession

A submission from The Speech Pathology Profession
to the Practitioner Regulation Subcommittee
for inclusion in the National Registration And Accreditation Scheme

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Speech Pathology Australia

Supplementary Information from Speech Pathology Australia in support of inclusion in the National Registration and Accreditation Scheme

November 2008

The Speech Pathology Association of Australia Limited
ABN 17 008 393 440

Supplementary Information from Speech Pathology Australia in support of Inclusion in the National Registration and Accreditation Scheme

The following material is in response to requests from the National Registration and Accreditation Implementation Project consultant and other jurisdiction health departments for further detail on certain points highlighted in the formal submission to the Practitioner Regulation Subcommittee: "The speech pathology profession: A national approach for working in the public interest", 3 October 2008.

Extent of Speech Pathologists' Involvement in High Risk procedures

Within the principle submission, as above, it is contended that the activities of the profession pose a significant risk of harm to the health and safety of the public. A number of areas in regard to the use of intrusive clinical practices and incompetent practice are discussed with respect to risks to the public, wider community and speech pathologists. A consultant from the National Registration and Accreditation Implementation Project has requested details on the extent of speech pathology involvement in high risk, intrusive procedures.

Data from the Queensland Registration Board indicates that up to 25% of speech pathologists in Queensland are employed in acute clinical settings, namely tertiary teaching hospitals. At a very minimum, all these clinicians will be involved in conducting swallowing assessments on patients using instrumental procedures such as the Modified Barium Swallow (MBS). These figures can be extrapolated to a national figure, as supported by Speech Pathology Australia data, which indicates that up to 32% or 1213 speech pathologists throughout Australia, currently work in the area of dysphagia/ swallowing assessment and management, and thus are using instrumental assessment such as MBS in their routine clinical practice.

As previously outlined in the Speech Pathology submission to the Practitioner Regulation Subcommittee, specific risks are posed both to patients and clinicians during the conduct of MBS (Appendix 1, Table 5, p. 38). These include exposure to radiation and the effects of improper food safety practices. Risks to patients are further increased when the procedure is conducted by clinicians who have inadequate training and supervision. The consequences of inaccurate diagnosis, use of inappropriate food consistencies and resultant aspiration, and poor management planning are increased medical complications and suboptimal outcomes for patients.

Assessment and management of swallowing may also involve the use of Fibreoptic Endoscopic Evaluation of Swallowing (FEES). FEES involves the passing of a small flexible scope with a light and lens on the end down through a person's nose and into their throat so as to observe their swallowing directly (p. 17). Association data indicates this to be a rapidly expanding area of clinical practice for speech pathologists, particularly in the acute health sector. The procedure is now routinely used in a number of acute care facilities in each state of Australia. Within Victoria alone, speech pathologists within five tertiary hospitals are using the procedure and/or are undergoing training to do so. Limited available data further reveals that 150 speech pathologists throughout Australia have recently participated in some form of professional development activity relating to FEES and plan to incorporate FEES into their routine clinical practice.

The specific risks associated with the use of FEES have previously been outlined (Appendix 1, Table 2, p.35). These include laryngospasm, epistaxis, syncope and person-to-person and environmental contamination. Given that each clinician may perform a minimum of 50 FEES procedure annually, the potential for harm is heightened when specific governance structures, practice standards and risk management mechanisms are lacking.

A proportion of speech pathologists working in acute care, rehabilitation and the community will be involved in the management of patients with tracheostomies. A tracheostomy may be required when someone has a blockage in their airway, is unable to protect their airway, requires ventilation for extended periods, or assistance to remove their secretions from their lungs. Limited data available to the Association suggests that within one tertiary hospital in Victoria, approximately 100 patients required a tracheostomy tube in 2007. A further 100 required ongoing care for a long term tracheostomy. This profile is likely to be replicated in most major metropolitan teaching hospitals. It would be reasonable to expect that each patient with a tracheostomy would require a minimum of five occasions of service by a speech pathologist. As speech pathologists play a key role in the care of patients with tracheostomies, failure to comply with practice standards for tracheostomy management pose a serious risk to patient safety competency. These risks are outlined in Appendix 1, Table 3, p.36 in the profession's principle submission.

Voice restoration following removal of the larynx (total laryngectomy) routinely involves tracheoesophageal voice restoration. This procedure involves the surgical creation of a communication (or puncture) between the oesophagus and trachea. Once this puncture is made, a speech pathologist inserts a one way valve into the puncture. This valve is known as a tracheoesphageal puncture prosthesis (TOPP). The patient is then able to shunt air from their lungs, through the valve and into their throat, thereby providing them with a means of producing sound which they can use to speak.

Speech pathologists are pivotal to the management of patients with TOPP, in relation to insertion of the valves, education of patients, and liaison with surgeons. In NSW alone ten major centres have specialised head and neck speech pathology positions, servicing this population. In Victoria, 18 centres provide services to both metropolitan and regional patients. Speech Pathology Australia data indicates that 10% of its members are involved in the care of patients with head and neck cancer, including those requiring management of a TOPP. It is reasonable to expect that the minimum number of speech pathology occasions of service for each patient would be 10-15, with many patients requiring ongoing speech pathology input over a number of years.

When speech pathologists fail to comply with practice standards for tracheoesophageal voice restoration, the likelihood of the risks as outlined in Appendix 1.Table 4, p. 37 are greatly enhanced. Such risks include aspiration of the valve into the lungs, lung infection, local infection and inability to communicate.

There is recognition by the profession that management of patients with dysphagia/swallowing difficulties, tracheostomies and head and neck cancer, including total laryngectomy, requires the development of highly specialised skills and specialised knowledge. Both formal and informal training opportunities in these clinical areas are limited and when made available, are highly sought. This is no better reflected than in the fact that over 90 clinicians from both metropolitan and regional centres in NSW have undertaken training in recent years in the management of patients using tracheoesophageal speech.

However, significant concern remains regarding the competency of clinicians to effectively manage these patients when they have irregular and/or only limited exposure to these patient populations. Clinicians in regional, rural and remote areas may only see one or two of these types of patients throughout their careers, however due to limited options for patients to access specialist services, rural and sole clinicians are often required to be a 'jack of all trades'. The potential for harm due to lack of competence or failure to comply with practice standards is very high. The benefits to the community in being able to access local health services is certainly well described in various literature. However, there are also risks to the community where services are provided by speech pathologists who are working beyond their scope of practice, and without adequate supervision.

Speech pathologists working in isolated positions such as those in rural and remote regions of Australia, as well as those working privately, are often disadvantaged in being able to access appropriate professional support and performance management. Where access to such support and performance management is limited, there is the potential for compromised safety and quality of patient care. Individual incompetence may be due to inadequate supervision and training. The outcomes for patients can be particularly negative where speech pathologists working in these roles

and locations are performing physically intrusive procedures without the necessary regulatory or workplace accreditation or credentialing frameworks in place.

In addition to the inherent risks associated with physically intrusive procedures, the consequences of these procedures being undertaken by an individual who is not competent to do so, is arguably more significant than less intrusive interventions. As noted above, limited data is available regarding the number of speech pathologists performing physically intrusive procedures such as FEES, tracheostomy management and care of patients following total laryngectomy. However of perhaps greater importance than the reported numbers of speech pathologists performing these procedures is the unreported data. In every Australian State and Territory, except Queensland, an individual without any relevant qualifications or experience is able to establish themself as a speech pathologist and offer any service recognised within the speech pathology scope of practice, including undertaking physically intrusive procedures such as those already described. This creates very real concerns with regard to patient health and safety when other health professionals are seeking to refer patients for speech pathology intervention. These health professionals are inhibited by the challenges of being able to reliably determine appropriately qualified and trained speech pathologists who are practising under appropriate governance frameworks.

History of Ethical Complaints against Speech Pathologists in Australia and internationally

A professional standard of care is established by codes of ethics and professional conduct, defined clinical competencies and scopes of practice, credentialing, and jurisdictional licensure laws such a statutory legislation. Significant gaps exist in the current regulatory mechanisms governing speech pathology practice:

1. none of the mechanisms successfully reach all speech pathologists; and
2. as individual, disconnected measures, they fail to offer effective protection to the public and practitioners in an integrated way within the context of the overarching purpose and accepted practices of the profession.

Speech Pathology Australia has a formal mechanism for hearing complaints against members who are charged with being in breach of the Code of Ethics. Members of Speech Pathology Australia who are found to breach these standards can be suspended or removed from the Association. The Association Council publishes the names of individuals who have been found to violate the Code of Ethics in the Association's membership publication ACQuiring Knowledge in Speech, Language and Hearing (ACQ), or when membership to the Association has been revoked, or when publication of other sanctions has been mandated by Council. However this does not offer effective protection to the public as the Association exercises no responsibility to limit such individuals from continuing to practice, and has no jurisdiction over non-members, which is estimated to be approximately 1500 practitioners.

On the other hand the Speech Pathologists Board of Queensland does have statutory power to ensure that unqualified or incompetent individuals do not practice speech pathology in Queensland. This greater level of power can be assumed to translate into greater assurances to the profession and the public that appropriate mechanisms to regulate the conduct of practitioners can be applied. Although relatively few complaints of professional conduct and competence and legal action have been lodged against speech pathologists, the trends in the Queensland Board's data, as shown below, reveal a significant increase in the number of complaints received. This is thought to be indicative of a trend of increased public and professional awareness of the important role and contribution of the Board in relation to public safety and confidence.

Complaints Reported to Speech Pathologists Board of Queensland

Year	Complaints Received
2003/2004	1
2004/2005	
2005/2006	
2006/2007	2
2007/2008	12

Speech Pathology Australia's national figures have shown a higher level overall of complaints raised with the Association but a smaller number actually translating into a formal complaint.

Complaints reported to Speech Pathology Australia

Year	Complaints Received	Converted to Formal Complaint
2006	23	1
2007	30	2
2008 (ytd)	21	2

The lack of desire to make a formal complaint may be reflective of the Association not being considered to be a neutral or independent body with the necessary powers to effectively investigate such offences. This reinforces the minimal impact the Association has in responding to specific issues. Further, as it is clearly indicated that the Association has no jurisdiction over non-members, there have been minimal complaints received regarding non-members. Just 4 complaints in 3 years have resulted with issues in the main relating to poor professional practice. One query related to a non speech pathologist calling themself a speech pathologist with the complainant referred to the relevant Consumer Commission.

Little is known of the pattern of complaints in other jurisdictions, however it has been indicated that the Health Professions Council (HPC) in the United Kingdom heard 13 separate complaints against speech and language pathologists over the period 2005-2008. These offences related to incompetent and unprofessional practice with the sanctions ranging from conditions of practice, suspension and being 'struck off'. Since the introduction of the HPC in 2002, the Royal College of Speech and Language Therapists ceased hearing complaints in regard to fitness to practice. They have communicated that this is because they do not have the legislative power to undertake investigations and hearings, and it would require huge financial and human resources which would be duplication of work undertaken by the HPC.

In New Zealand, the New Zealand Society of Speech and Language Therapists do not formally hear complaints but will refer these to another regulatory or complaints body. Anecdotally we understand a small number of complaints are referred to these relevant bodies each year. It is likely that managing complaints will officially become the function under the NZ Health Practitioners Competence Assurance Act (2003) pending inclusion of speech pathologists within the NZ national registration scheme (currently under consideration).

In the USA and Canada, while the speech pathology associations do have ethical conduct mechanisms, the greater power of formal hearings and imposition of sanctions rests with the licensure bodies.

In many respects it is pleasing that the overall level of complaints made against speech pathologists in Australia is relatively low. This however does not negate the need to have formal and legal structures in place that apply to all speech pathologists across Australia. This is the only means by which assurances can be given in regard to public safety and confidence.

Formal Consultation with the Profession and Consensus on move towards National Registration

The matter of registration for the speech pathology profession has been one that has a long standing history, with extensive debate and decisions in the past to pursue registration in various states and/or territories. One example dates back to 1990 where a submission was made to the then NSW Minister for Health, Peter Collins MP. A formal submission was made on behalf of the profession by the Australian Association of Speech and Hearing (now Speech Pathology Australia). At that time there was also a move toward registration in WA and there has been intermittent discussion and attempts to gain registration in Victoria. In all of these discussions the profession has believed it had compelling arguments to support the need for registration on the basis of potential risk of harm to the public if speech pathology practice was delivered by unqualified, unethical or incompetent practitioners.

In more recent times, in the context of the proposed national registration and accreditation scheme, the profession again has actively debated the need for regulation involving consultation with a wide range of members of the profession. During 2006, following the Productivity Commission's Health Workforce Report (2005) and COAG announcements to pursue the national scheme, meetings were held with the Department of Health and Ageing and discussion papers were developed for the National Council of Speech Pathology Australia. In 2007 a focus group consultation was held to discuss the profession's views and position against the six AHMAC criteria. Involved in these discussions were representatives and stakeholders as follows:

- National Council of Speech Pathology Australia
- Association Branch Presidents
- Speech Pathologists Board of Queensland
- Representatives of a number of university speech pathology programs
- Key staff including: Chief Executive Officer; Senior Advisor Professional Standards, Senior Advisor Professional Recognition (Overseas Qualifications), Senior Advisor Professional Issues and Ethics
- Member Network representatives including – Rural and Remote Practice, Students, Community of Practice in Education, and Private Practice.
- Chair of the Ethics Board
- Past Presidents and eminent members of the profession.

As a part of the Focus Group workshop, a consensus statement to pursue national registration at this time was reached. This recommendation was subsequently put to all members attending the Speech Pathology Australia Annual General Meeting, 2007, with unanimous agreement from those in attendance. Opportunity to comment or oppose this view was also offered to the whole of the profession through an article placed in the member publication *Speak Out*, with no opposition received.

A further test of the profession's commitment to National Registration was provided as part of the Association's Member Survey, May 2008. One question canvassed the areas seen by members as a high priority for the Association over the next three years. Achieving registration was rated very highly as one of the three top priorities for the profession.

In further support of registration for the profession is that registration has been successfully in place in the State of Queensland since 1982. Approximately 75% of speech pathologists in Queensland are also members of the Association, indicating that it is clearly recognised that there is a need and separate place for the Registration Board and the Professional body. Financially speech pathologists are able to meet the costs of both registration and professional association membership.

In forming the submission to the Practitioner Regulation Subcommittee of the Health Workforce Principles Committee, electronic and written material was circulated to the membership of speech pathology Australia, and within the time restraints provided, a broad cross section of the profession were invited to comment. The final submission is a joint submission from the Association and Registration Board of Queensland on behalf of the profession as a whole.

Further enquiries or discussion will be welcomed on the above or additional points in regard to the speech pathology profession's submission for inclusion in the National Registration and Accreditation Scheme.

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21 November 2008

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Speech Pathology Australia

The Profession of Speech Pathology

Summary of Key Points in relation to Criteria for Inclusion in the National Registration and Accreditation Scheme

The following material provides a summary of key points in relation to the criteria for inclusion of the profession of Speech Pathology in the National Registration and Accreditation Scheme. This document supplements the 'The Speech Pathology Profession: A national approach for working in the public interest' (Speech Pathology Australia, 2008)[1] and 'Supplementary information from Speech Pathology Australia in support of Inclusion in the National Registration and Accreditation Scheme' (2008)[2].

Speech Pathology Australia maintains that there are many areas of speech pathology practice that include invasive procedures which pose risks to the public if not appropriately governed and regulated. These practices are expanded in Criterion 2. We contend that regulation of the speech pathology profession through the nation-wide registration and accreditation scheme would address the genuine risks of physical, social and emotional harm inherent in the speech pathology role and will contribute to building and maintaining public confidence in services provided by appropriately qualified speech pathologists.

Criterion 1

Is it appropriate for Health Ministers to exercise responsibility for regulating the speech pathology profession, or does speech pathology more appropriately fall within the domains of another Ministry?

Yes. The domain of The Health Ministry is the most appropriate to exercise responsibility for regulating the profession of speech pathology. Regardless of the context that an individual speech pathologist works in, the overwhelming majority of the infants, children and adults they work with have additional needs with a direct connection with one or more health issues, health professionals, or health services.

Further to this, the speech pathology profession is well recognised as a provider of health services. The inclusion of the speech pathology profession in the Medicare Australia's 'Enhanced Primary Care' program and 'Helping Children with Autism' program are two examples of this. Speech pathologists are also recognised as eligible health service providers by the Department of Veterans' Affairs, Transport Accident authorities, and workers compensation authorities across Australia. Private health insurance companies also include speech pathology as a rebatable health service.

Speech pathology is a registered profession in Queensland under the jurisdiction of the health ministry.

Criterion 2

Do the activities of the speech pathology profession pose a significant risk of harm to the health and safety of the public?

Yes. Speech pathology practices pose inherent risks to the public and to practitioners due to the nature of the client groups seen by speech pathologists, the specific clinical activities undertaken by speech pathologists and environments in which speech pathologists work.

Exponential changes to the practice of speech pathology and the increasing complexity of patient needs has led to common-place advanced diagnostic and therapeutic processes. Physically intrusive procedures, including the insertion of medical instruments into body cavities, are performed by speech pathologists as part of advanced scope of practice. Such procedures include the insertion of nasendoscopes in the nose and pharynx of patients so as to assess their swallowing, as

[1] Speech Pathology Australia & Speech Pathologists Board of Queensland (2008). The speech pathology profession: A national approach for working in the public interest. A submission from the Speech Pathology profession to the practitioner Regulation Subcommittee for inclusion in the National Registration and Accreditation Scheme.

[2] Speech Pathology Australia (2008). Supplementary information from Speech Pathology Australia in support of inclusion in the National Registration and Accreditation Scheme.

in Fibreoptic Endoscopic Evaluation of Swallowing (FEES), and insertion of voice prostheses into the tissue separating the trachea and oesophagus (tracheo-oesophageal voice restoration) of patients having undergone removal of their larynx. In this latter group of patients, speech pathologists frequently use topical anaesthesia sprays to facilitate prostheses insertion and recommend antifungal medications for the management of pharyngeal candida. Speech pathologists are responsible for the placement of speaking valves on patients with tracheostomy tubes and are currently investigating the potential to advance their scope of practice to include oral and nasopharyngeal suctioning of these patients.

As previously outlined in the Speech Pathology Australia submission to the Practitioner Regulation Subcommittee [1] (Appendix 1, Tables 2-5), these procedures pose a variety of risks to the patient, including asphyxiation, aspiration pneumonia and death. Risks may also extend to practitioners, including risk of cross contamination from fluids and blood by-products, and risk of excessive exposure to ionising radiation when conducting video x-ray examinations of swallowing (Modified Barium Swallow).

Non instrumental practices undertaken by speech pathologists also pose risks to patients. For example, speech pathologists are recognised within the health sector as the experts in the assessment and management of adults, children and neonates with swallowing problems (dysphagia). If dysphagia is not identified and treated appropriately through recognised best practice and defined clinical procedures and standards, individuals affected by dysphagia are at increased risk of medical complications such as malnutrition, pneumonia, airway obstruction and death (*Op. cit.* Table 1). Whilst training opportunities and ongoing professional development is offered to speech pathologists, significant concerns remain regarding the competency of clinicians to effectively manage these patients, particularly when clinicians have only limited exposure to these patients or limited access to professional supervision and competency training, as may occur in rural and remote locations or in private practice.

Advanced areas of speech pathology practice also include autism, mental health, indigenous health, chronic illness and palliative care, with these groups having complex conditions and needs which require appropriate, specialist skills. Risks of inappropriate management, causing harm and failure to provide evidenced base practices, can occur where a profession is practising outside any formal regulating framework.

Criterion 3

Do existing regulatory or other mechanisms fail to address health and safety issues for the speech pathology profession?

Yes. Although existing mechanisms to address public health and safety in relation to speech pathology practice are available at a limited level through the Association's Code of Ethics (2000) and other professional practice documents, they fail to provide universal coverage, are fragmented and lack appropriate powers of authority.

Specifically in relation to the professional practice complaints, speech pathologists who are found to have breached professional standards can have their membership of the Association suspended or removed, but this does not prevent them from continuing to practise. This is of particular concern as both the number and seriousness of complaints is increasing:

Number of complaints received:

- 2006/07 – 2
- 2007/08 – 12
- 2008/09 – 17 to date

Nature of complaints include alleged:

- Death of a patient (with dysphagia) due to the direct intervention of a speech pathologist;
- Inaccurate assessment and interpretation of assessment results;
- Breaches in privacy and confidentiality;
- Poor business practices;
- Assault and bullying.

The Association has completed 7 formal investigations during the period 2006-09, finding breaches in professional conduct in 4 investigations. The Association strongly believes that the formal and legal structures that would oversee the profession under the National Registration and Accreditation Scheme would increase consumer and practitioner confidence with regard to both the investigation process undertaken and the scope and impact of penalties for breaches in professional conduct.

Criterion 4

Is regulation possible to implement for the speech pathology profession?

Yes. As a well defined profession currently operating under a solid knowledge base and clear competency standards, regulation of the profession can be readily implemented under the proposed scheme. The functional competencies of speech pathologists are well defined by the profession and reflected in Association documents – these documents provide clear guidelines regarding minimal knowledge, skills and attributes and outline established standards that could readily be incorporated into the proposed national registration framework.

Criterion 5

Is regulation practical to implement for the profession of speech pathology?

Yes. Regulation under the National Registration and Accreditation Scheme will be practical to implement for the speech pathology profession and can be achieved within the framework of financial self-sustainability. In seeking national registration, the profession has articulated a commitment to improving regulation in the public interest, rather than in occupational self interest. Indeed, the leadership of Speech Pathology Australia, the Speech Pathologists Board of Queensland and speech pathologists across Australia are in alliance in recognising the current inadequacies of the existing mechanisms available for ensuring the health and safety of the public it serves. The membership of Speech Pathology Australia has indicated their overwhelming support for a move towards increased regulation by way of registration of the profession.

Criterion 6

Do the benefits of regulating the speech pathology profession clearly outweigh the potential negative impacts of such a regulation?

Yes. Regulation of the speech pathology profession by way of national registration would address the very real risks of physical and social harm inherent in the practice of speech pathology, and would contribute to building and maintaining public confidence in services provided by appropriately qualified speech pathologists.

Inclusion of the speech pathology profession in the national registration and accreditation scheme will provide a sound framework to manage the potential risks to public safety that may arise from speech pathologists working without the support and governance of rigorous quality assurance mechanisms. The design of the intended national registration scheme circumvents many of the negative impacts that have been associated with regulation of health professionals in the past, including increased costs to patients and the health system, increased market control and reduced consumer cost. Rather, the proposed single national regulatory scheme is seen by the profession as an opportunity to, among other things, positively influence workforce supply and mobility of qualified speech pathologists at a time of tight labour market and other pressures.

Speech Pathology Australia maintains that regulation of the profession of speech pathology through the nation wide registration and accreditation scheme would address the genuine risks of physical, social and emotional harm inherent in the speech pathology role and would contribute to building and maintaining public confidence in services provided by appropriately qualified speech pathologists. For further consultation, please contact:

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